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UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
TUESDAY, OCTOBER 7, 2008  
AT 9:00 A.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 10:02 a.m. The meeting was recessed by Council President Peters at 11:30 a.m. to reconvene into Closed Session and thereafter the noon recess and thereafter reconvene at 2:00 p.m.

The meeting was reconvened by Council President Peters at 2:04 p.m. with Council President Pro Tem Madaffer and Council Member Hueso not present. Mayor Sanders and Fire Chief, Tracy Jarman, presented a plaque to John McCallan of Pearson Ford and Bob Tarlton of the Ford Motor Company in recognition for their generous donation of ten Ford trucks and sport utility vehicles to the San Diego Fire Rescue Department. Mayor Sanders acknowledged and congratulated Fire Chief, Tracy Jarman, who was recently named "Fire Chief of the Year" by the California Fire Chief's Association. A representative from Vladivostok, Russia, presented a letter to the City Council. Council President Peters recessed the meeting at 4:29 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 4:35 p.m. with Council Member Atkins not present. Council President Peters recessed the meeting at 4:37 p.m. to convene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:38 p.m. with Council Member Atkins not present. Council President Peters recessed the meeting at 4:38 p.m. to reconvene the Redevelopment Agency. Council President Peters reconvened the regular meeting at 4:42 p.m. with Council Member Atkins not present. Council President Peters recessed the meeting at 4:43 p.m. to convene the Housing Authority. Council President Peters reconvened the regular meeting at 5:07 p.m. with Council Member Atkins not present. The meeting was adjourned by Council President Peters at 5:42 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present

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(5) Council Member Maienschein-present

(6) Council Member Frye-present

(7) Council Member Madaffer-present

(8) Council Member Hueso-present

Clerk-Maland (dlc/mz)

FILE LOCATION: MINUTES

ITEM-300: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

NON-AGENDA COMMENT:

PUBLIC COMMENT-1:

Don Stillwell commented on prayer and the flag salute.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:38 a.m. – 10:40 a.m.)

## PUBLIC COMMENT-2:

Nancelle Lauffer commented on the homeless, poor and mentally ill.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:40 a.m. - 10:41 a.m.)

## PUBLIC COMMENT-3:

Cricket Bradburn commented on the image of homeless.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:41 a.m. - 10:44 a.m.)

## PUBLIC COMMENT-4:

Al Strohlein commented on The Bible.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:44 a.m. - 10:47 a.m.)

## PUBLIC COMMENT-5:

Adriana Wall commented on going green.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:50 a.m. - 10:51 a.m.)

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PUBLIC COMMENT-6:

Izean Rim Jr. commented on public safety.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:53 a.m. - 10:56 a.m.)

PUBLIC COMMENT-7:

Mignon Scherer commented on water.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:56 a.m. - 10:57 a.m.)

PUBLIC COMMENT-8:

Robert McNamara commented on redevelopment.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:57 a.m. - 10:59 a.m.)

PUBLIC COMMENT-9:

Phil Hart commented on campaign contributions.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:59 a.m. - 11:02 a.m.)

PUBLIC COMMENT-10:

Joy Sunyata commented on a working waterfront.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:02 a.m. - 11:05 a.m.)

PUBLIC COMMENT-11:

Billy Paul commented on a water line on Clairemont Drive.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:05 a.m. - 11:07 a.m.)

PUBLIC COMMENT-12:

Elinor Rector commented on The Bible perspective.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:12 a.m. - 11:14 a.m.)

PUBLIC COMMENT-13:

David Ross commented on displaced in San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:14 a.m. - 11:17 a.m.)

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PUBLIC COMMENT-14:

Homer Barrs commented on Mission Valley Village.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 11:19 a.m. - 11:22 a.m.)

COUNCIL COMMENT:

COUNCIL COMMENT-1:

Council President Peters welcomed the students of High Tech High International.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:37 a.m. – 10:37 a.m.)

INDEPENDENT BUDGET ANALYST COMMENT:

None.

CITY ATTORNEY COMMENT:

None.

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ITEM-30: Midge Costanza Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-339) ADOPTED AS RESOLUTION R-304168

Commending and thanking Midge Costanza for the contributions she has made to this city, state, and country;

Proclaiming October 7, 2008, to be "Midge Costanza Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:01 a.m. – 10:15 a.m.)

MOTION BY ATKINS TO ADOPT. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-31: Financial Planning Week.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-399) ADOPTED AS RESOLUTION R-304169

Proclaiming October 6-12, 2008, as "Financial Planning Week" in the City of San Diego.

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FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:16 a.m. – 10:22 a.m.)

MOTION BY YOUNG TO ADOPT. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-32: Gordon Boerner Day.

**COUNCILMEMBER MAIENSCHIEIN'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-278) ADOPTED AS RESOLUTION R-304170

Proclaiming October 7, 2008, as "Gordon Boerner Day" in the City of San Diego in recognition of his many outstanding contributions and service to San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:22 a.m. – 10:25 a.m.)

MOTION BY MAIENSCHIEIN TO ADOPT. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



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- \* ITEM-50: Torrey Hills Rezone located between Vista Sorrento Parkway and West Ocean Air Drive, south of Calle Mar De Mariposa, within the Torrey Hills Community Plan Area. (Torrey Hills Community Plan Area. District 1.)

**CITY COUNCIL'S RECOMMENDATION:**

Adopt the following ordinance which was introduced on 9/16/2008, Item 334, Subitem B. (Council voted 7-1. Councilmember Frye voted nay):

(O-2009-23 Cor. Copy)      ADOPTED AS ORDINANCE O-19789  
(New Series)

Changing 24.8 acres located between Vista Sorrento Parkway and West Ocean Air Drive, south of Calle Mar De Mariposa, within the Torrey Hills Community Plan Area, in the City of San Diego, California, from the IP-2-1 and RM-2-5 Zones into the RM-3-8 and OR-1-1 Zones, as defined by San Diego Municipal Code Sections 131.0406 and 131.0204; and repealing Ordinance No. O-18451 (New Series), adopted December 9, 1997, of ordinances of the City of San Diego insofar as the same conflicts herewith.

**NOTE:** This item is not subject to the Mayor's veto.

**FILE LOCATION:**      MEET

**COUNCIL ACTION:**      (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO DISPENSE WITH THE READING AND ADOPT THE ORDINANCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

- \* ITEM-51: Contract Change Order No. 2 with Nature's Image, Inc. for the Rancho Mission Canyon Wetland Enhancement Project. (Navajo Community Area. District 7.)

(See Metropolitan Wastewater Department's 7/22/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2009-38) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
OCTOBER 21, 2008

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute Contract Change Order No. 2 and approving Contract Change Order No. 2 to the contract with Nature's Image, Inc. for the Rancho Mission Wetland Enhancement, under the terms and conditions to provide a time extension of 1512 days and to add an additional \$262,078.76 to the contract;

Authorizing an amount not to exceed \$262,078.76 from Sewer Fund 41506, Dept. 776, Org. 725, solely and exclusively, to provide funds for Change Order No. 2;

Declaring that the above activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15378(c). This activity is a subsequent discretionary approval covered under Program EIR, PTS No. 6020, dated December 15, 2003. This activity is adequately addressed in the environmental document and there is no change in circumstance, additional information, or project changes to warrant additional environmental review pursuant to CEQA Guidelines Section 15162.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C, voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

On May 14, 2007, the City entered into an agreement with Nature's Image, Inc., with Document Number C-13428. The agreement, in the amount of \$985,746.04, included the construction associated with the Rancho Mission Canyon Wetland Enhancement Project. The site is located on Open Space Lands in the Navajo Community. The project consists of the enhancement of more than 11 acres of wetland and wetland transitional habitat to be used as compensatory mitigation for past and future impacts to upland and wetland habitats within the San Diego River Watershed. Habitat mitigation projects involve construction, installation, and a mandatory five-year maintenance and monitoring period. The Rancho Mission Canyon Wetland Enhancement Project is currently in year one of the five-year maintenance period.

This request is for a time extension for 1,512 days from the expiration date of the existing contract and an additional \$262,078.76 in funding to allow the contractor to complete the five years of long-term maintenance. The original contract expires on January 18, 2009. This Contract Change Order will enable Nature's Image, to continue to provide maintenance services for the Rancho Mission Canyon Wetland Enhancement Project as required by regulatory permits.

**EQUAL OPPORTUNITY CONTRACTING**

Funding Agency: City of San Diego- Prevailing wages do not apply to this contract (No State or Federal Funding).

Goals: This project has goals of 19% Mandatory Subcontractor Participation Goal, 6% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise, 12% Advisory Participation Goal Other Business Enterprise (OBE).

Other: A work force report has been submitted. Nature's Image Inc., has demonstrated efforts to diversify their workforce which precludes the need to request an Equal Opportunity Plan.

**FISCAL CONSIDERATIONS:**

The total not to exceed authorization is \$262,078.76. Funds have been budgeted in the FY 2009 operating budget and are available in Sewer Fund 41506, Dept 776, Org 722 for this project. With this change order the total contract value will be increased to \$1,317,415.43.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

R-301791 Approved plans and Specifications and authorized funding in the amount of \$1,061,500. This item was approved by the Natural Resources and Culture Committee on September 10, 2008.

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COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Nature's Image, Inc.

Ferrier/Barrett

Aud. Cert. 2900083.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-52: New Lease Agreement with Rancho De La Loma, LLC. (San Pasqual Valley Community Area. District 5.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-45) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
OCTOBER 21, 2008

Introduction of an Ordinance authorizing the Mayor, or his designee, to execute a 15-Year Percentage Lease with Rancho De La Loma, LLC for approximately 64 acres located in the San Pasqual Valley Agricultural Preserve.

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**STAFF SUPPORTING INFORMATION:**

The current lease has approximately two years remaining on the original 24-year term. The leasehold sustained extensive damage as a result of the October 2007 Witch Creek Fire when approximately 60% of the avocado grove and 90% of the above ground irrigation were destroyed or damaged. Matt Witman appeared before the Ad-Hoc Fire Prevention and Recovery Committee in January requesting a new lease term to enable reinvestment in the leasehold. He proposes to spend approximately \$180,000 to restore the avocado grove to pre-fire production levels within 5-7 years. He has spent approximately \$50,000 on fire debris removal and irrigation repair to date.

Staff has negotiated a new 15-year percentage lease with Matt Witman. Under the proposed lease, rent to the City will be 25% of the lessee's first \$550,000 of gross income and 33% of gross income above \$550,000 per year, less picking and packing costs. The annual minimum rent is \$15,000 per year. Staff has determined this rent structure, which provides the City a greater share of the lessee's gross income than the existing lease, to be commensurate with the market. Over the last five years the lessee has paid an average annual rent of \$105,401. Percentage rent paid to the City in the first few years of the new lease will be lower than this amount while the lessee re-establishes production from the grove. The proposed lease also contains a fire recovery rent credit of \$25,000 for the first year and \$15,000 for the second year. However, under the new rent structure negotiated it is anticipated that once the grove is fully recovered rent will be 25-50% more than the current average.

The new lease also includes updated language for water usage, insurance coverage and best management practices. The agreement conforms to the Water Department's implementation of the Groundwater Management Plan currently underway in the San Pasqual Valley, and to the San Pasqual Vision Plan implemented in 2005 as Council Policy 600-45. Rancho De La Loma's certified organic status provides further protection to the City's groundwater basin.

**FISCAL CONSIDERATIONS:**

Rent will be deposited into the Water Department Fund 41500. Annual minimum rent is \$15,000.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

In January 2008, the Ad-Hoc Committee on Fire Prevention and Recovery authorized staff to prepare for City Council consideration a new lease with Rancho De La Loma to facilitate recovery from the October 2007 Witch Creek Fire. Staff reported to the Committee on July 10, 2008, that a new lease had been negotiated.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The San Pasqual/Lake Hodges Planning Group, Rancho Bernardo Planning Board, and San Pasqual Land Use Task Force support fire recovery efforts for agricultural lessees in the San Pasqual Valley Agricultural Preserve.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Matt Witman, Rancho De La Loma, LLC.

Barwick/Anderson

Staff: Dave Martens - (619) 236-6066  
Todd Bradley - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-53: Agreement with NextG Networks, Inc., for the Conversion of Overhead Facilities to Underground Service.

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2009-25) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
OCTOBER 21, 2008

Introduction of an Ordinance authorizing the Mayor to execute, for and on behalf of the City, an Agreement with NextG Networks, Inc., for an amount not to exceed \$500,000 for the relocation of overhead facilities to underground service, under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase

project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this Project and Agreement;

Declaring that this activity is not a "project" and is therefore not subject to CEQA pursuant to State CEQA Guidelines Section 15060(c)(3).

**NOTE:** 6 votes required pursuant to Section 99 of the City Charter.

**STAFF SUPPORTING INFORMATION:**

Beginning in 1967, the Public Utilities Commission of the State of California (CPUC) instituted a statewide program to convert existing overhead lines to underground service (CPUC Program). The CPUC Program has been implemented through the CPUC's rulemaking process and conversion tariffs, including San Diego Gas and Electric's (SDG&E) Rule 20 and AT&T's Rule 32. Both Rule 20 and Rule 32 require underground conversion projects meet "public benefit" criteria.

In 1970, the City and SDG&E entered into a fifty (50) year Franchise Agreement, wherein SDG&E agreed to convert overhead lines to underground service per CPUC Rule 20 at a rate equal 4.5% of their gross electric revenues. From 1979 through 2001, the rate of underground conversion of overhead lines gradually declined as low as one percent (1%) of SDG&E's gross electric revenue.

To address this decline, the City and SDG&E revised the terms of the franchise agreement for the remaining 20 years of the Franchise Agreement, in order to restore the rate of underground conversion of SDG&E's overhead lines to 4.5% of SDG&E's gross electric revenue.

The City and SDG&E agreed to pursue an electric surcharge on electricity users within the City of San Diego, enabling the City to expand the conversion of overhead lines in residential areas (Surcharge Program). In 2002, the City amended the Underground Utility Procedural Ordinance and adopted the new City Council Policy 600-08, which requires, among other things, all companies with overhead lines within the City of San Diego to underground lines that do not necessarily meet public benefit criteria under the conversion tariffs implementing the CPUC program. The CPUC approved the increases to the SDG&E electric franchise fee surcharges in CPUC Resolution E-3788 on December 19, 2002. In Resolution E-3788, the CPUC granted a deviation of the CPUC Rules governing utility undergrounding in order to implement the SDG&E/City proposed underground conversion program. In May 2002, the City revised the terms of the Cox and Time Warner cable TV franchises in order to secure the cable companies participation in the Surcharge Program. Generally, under those terms the City pays for the

trenching and installation of conduit in the joint trench (conduit provided for by cable companies) and the cable companies will pay for the remainder of the undergrounding expenses. In addition, the cable companies agree to not pass those undergrounding costs on directly to their customers.

In January 2005, the City and AT&T reached a Settlement agreement to secure AT&T's participation in the Surcharge Program. Under that Settlement Agreement, the terms are similar to that of the cable companies, except that AT&T - with the City's support - is currently in the process of seeking a surcharge on AT&T customers, both wholesale and retail, to provide the necessary funds.

With the City's support, NextG (a telecommunications company similar to AT&T) desires to participate in the Surcharge Program in a manner similar to that of the cable companies in that the City will pay for the trenching and installation of conduit in the joint trench (conduit provided for by NextG) and NextG will pay for the remainder of the undergrounding expenses. This Agreement does not require CPUC approval, nor does it contemplate a cost recovery surcharge as presently being pursued by AT&T.

FISCAL CONSIDERATIONS:

Estimated costs of \$500,000 over life of the Agreement, currently estimated to be 52 years.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None explicitly for this Agreement.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Residents, Businesses, and other Utility Companies.

Boekamp/Jarrell/Gibson

Staff: Marnell Gibson - (619) 533-5213  
Ryan Kohut - Deputy City Attorney



FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-54: Exempting a Program Manager Position from the Classified Service.

(See memorandum from Hadi Dehghani dated 6/27/2008.)

**STAFF'S RECOMMENDATION:**

Introduce the following ordinance:

(O-2009-37) INTRODUCED, TO BE ADOPTED ON TUESDAY,  
OCTOBER 21, 2008

Introduction of an Ordinance exempting from the Classified Service a Program Manager Position and declaring it to be in the Unclassified Service of the City of San Diego, pursuant to Section 117(a)17 of the City Charter, after having been reviewed and commented upon favorably by the Civil Service Commission on July 3, 2008, as meeting the Charter criterion for exemption from the classified service, and after having considered and reviewed the Report thereon from the Personnel Director to the Council President and City Council dated July 17, 2008.

**STAFF SUPPORTING INFORMATION:**

See memorandum from the Personnel Director.

FISCAL CONSIDERATIONS: N/A

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

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KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Barrow/Heap

Staff: Deborah Barrow - (619) 236-5843  
Paul F. Prather - Deputy City Attorney

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-55: Amendments to San Diego Municipal Code Sections 26.0781-26.0730, Commission for Arts and Culture. (Citywide.)

(See Report to the City Council No. 08-136, Amended/Proposed version of SDMC 26.0701 et seq., and strike-out version, dated May 29, 2008; Commission for Arts and Culture PowerPoint; S.D. Arts and Culture Policy Recommendations with CPI's August 28, 2007, report; and Report from the City Attorney dated 9/4/2008.)

TODAY'S ACTION IS:

Introduce the following ordinance:

(O-2009-21 Cor. Copy) INTRODUCED, TO BE ADOPTED ON  
TUESDAY, OCTOBER 21, 2008

Introduction of an Ordinance amending Chapter 2, Article 6, Division 7, of the San Diego Municipal Code, by amending Section 26.0701 through Section 26.0704; by amending and renumbering Section 26.0705 to Section 26.0721, Section 26.0706 to Section 26.0714, Section 26.0707 to Section 26.0715, Section 26.0708 to Section 26.0716, Section 26.0709 to Section 26.0717, Section 26.0710 to Section 26.0718, Section 26.0711 to Section 26.0719 and Section 26.0712 to

Section 26.0720; and by adding Section 26.0713 through Section 26.0728, all relating to the Commission for Arts and Culture. These amendments and additions: (1) set forth and clarify the respective duties and functions of the Commission, the Executive Director, and Commission staff; (2) formally establish the Executive Director Commission as the steward for the City's art collection; (3) improve the process for acquiring and documenting ~~high-quality~~ art; and (4) clarify conflict of interest requirements and appointment procedures for Commissioners.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS**  
**COMMITTEE'S RECOMMENDATION:**

On 6/25/2008, Rules voted 5 to 0 to approve the staff recommendation and refer this item to the City Council for consideration, with additional clean-up by the City Attorney of the Municipal Code amendments. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.)

**SUPPORTING INFORMATION:**

As part of the ongoing City-wide efforts to control spending, increase cash flow, create efficiencies and accurately document City-owned assets, the Commission for Arts and Culture (Commission), has conducted a three-year examination of the San Diego Municipal Code Chapter 2: Government; Article 6: Board and Commissions; Division 7: Commission for Arts and Culture Chapter 2, Article 6, Division 7 of the San Diego Municipal Code, hereinafter referred to as "SDMC 26.0701 et. seq." This section of the Municipal Code establishes the Commission and outlines its purpose, duties and functions. The Commission's duties and functions have evolved, necessitating the proposed amendments.

The City Council's approval of the requested action outlined above is anticipated to result in:

- Updated duties and functions that accurately reflect the contemporary work of the Commission;
- Delineation of the duties and functions of the Executive Director and Commission staff;
- Clarification that the Executive Director, not the Commission, acts as the City's fiduciary agent in the management of the public funds allocated to the Commission by the Mayor and City Council each year;
- Formal establishment of a steward for the City's art collection, a role the Commission has been fulfilling for 20 years;

- Resources and labor saved through the establishment of the Commission as the single point of contact for the oversight of the City's art collection including processing art donations and loans, de-accessioning, maintenance, repair, conservation, operation, storage and exhibition of the City's art assets;
- Improved customer service for art donors, lenders and borrowers;
- An increase in the quality and, therefore, the value of the City's art collection;
- Accurate documentation of the City's art assets;
- Adherence to the standards of the Governmental Accounting Standard Board (GASB 34) and the City's 2004 Public Art Master Plan;
- Clarified conflict of interest requirements for Commissioners;
- Clarified appointment methods, terms and qualifications for Commissioners.

FISCAL CONSIDERATIONS:

No costs will be incurred by approval of the proposed amendments. However, it is anticipated that the amendments may lead to improved fiscal accountability, resource conservation and preservation or an increase of the value of City-owned art assets.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On June 25, 2008, the Committee on Rules, Open Government, and Intergovernmental Relations of the City Council voted to recommend approval of the staff recommendation and to refer this item to the City Council for consideration with additional "clean up" to the SDMC 26.0701 et. seq. amendments by the City Attorney. The City Attorney's recommendation for "clean up" language is attached.

San Diego Municipal Code Chapter 2: Government; Article 6: Board and Commissions; Division 7: Commission for Arts and Culture was added 5-15-1989, by O-17298 N.S. Amended, added and/or renumbered 4-20-1992, by O-17757 N.S.; 4-10-2000, by O-18786 N.S.; 5-17-2004, by O-19280 N.S.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On April 18, 2008, the Commission voted to recommend to the Mayor and City Council approval in concept of the proposed amendments to SDMC 26.0701 et. seq. On April 7, 2008, the Policy Committee, a subcommittee of the Commission, voted to recommend to the Commission approval in concept of the proposed amendments to SDMC 26.0701 et. seq. On May 3, 2007, the Public Art Committee, a subcommittee of the Commission, voted to recommend to the Commission approval in concept of the proposed amendments to SDMC 26.0701 et. seq.

In addition, the research and development of the proposed amendments engaged the following individuals, groups and organizations:

- Deputy Chief of Community and Legislative Services
- City Attorney's staff
- Director, Major Gifts and Philanthropy Planning
- Executive Director, Commission for Arts and Culture and staff
- Visual Arts Librarian and Manager of the Library Department's Visual Arts Program
- Grants and Gifts Business Process Reengineering (BPR) Team
- Ethics Commission staff
- Purchasing and Contracting Department staff
- Other municipal governments nationwide
- National Public Art Network of Americans for the Arts

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Key stakeholders include the Commission, the Executive Director and Commission staff as well as elected officials, City staff and San Diego's citizenry.

Projected impacts may include improved fiscal accountability, resource conservation and preservation or an increase of the value of City-owned art assets. Increased labor associated with educating City staff about any new or amended duties and functions assigned to the Commission, the Executive Director and Commission staff may be possible.

The City's requirements, adopted in 2004, for the inclusion of art and/or cultural space in eligible private developments are not materially changed by these proposed amendments. None of the proposed amendments shall be construed to limit or abridge the powers or exclusive jurisdiction of the City's Library Department over its Visual Arts Program.

Hamilton/Michell

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO INTRODUCE. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-100: Awarding Contract to Select Electric, Inc., for the Brown Field Airport Airfield Electrical System Upgrades, Phase II and Phase III. (Otay Mesa Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-342)                      ADOPTED AS RESOLUTION R-304171

Approving the plans and specifications for the Brown Field Airport Airfield Electrical System Upgrades, Phase II and Phase III, as advertised by Purchasing and Contracting and bid on by Select Electric, Inc., on Work Order No. 313000;

Accepting the bid of Select Electric, Inc., to perform the electrical upgrades described in Phase II and Phase III in the principal amount of \$2,094,800, with the additional sum of \$418,960, for construction management and contingency costs, and awarding the contract for the work to Select Electric, Inc.;

Authorizing the City Auditor and Comptroller to transfer the sum of \$124,312 from CIP-31-179.0, Brown Field Special Aviation, to CIP-31-001.1, Brown Field Annual Allocation. (BID-K084338)

**STAFF SUPPORTING INFORMATION:**

The Airports Division has proposed improvements to the Brown Field Airfield electrical system. This work is designated as a high priority by the Federal Aviation Administration (FAA), due to its impact on safety.

The existing Brown Field airfield lighting system, that provides visual guidance for aircraft operating at night and in inclement weather, has had multiple failures over the last several years. These failures have not only been costly to repair, but have been responsible for aircraft deviations and diversions. This system was scheduled to be upgraded in three phases, due to FAA grant funding constraints. Phase I replaced many components of the electrical system that date back to the 1960s, including providing new electrical vault and generator. This contract, Phase II and Phase III, will complete the remainder of the electrical system upgrade and will add visual navigation equipment to enhance both vertical and lateral guidance for aircraft approaching at night or in inclement weather and will further enhance the safety and operational effectiveness of the airport.

Based on the design consultant's estimates and staff recommendations, on May 27, 2008, the City Council authorized the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$3,900,000 from CIP-31-179.0 and to transfer an amount not to exceed \$250,000 from CIP-31-001.1, Brown Field Annual Allocation, to CIP-31-179.0, within Fund 10510, Brown Field Special Aviation, for completion of the project. On June 13, 2008, the City opened bids. The lowest responsible bid by Select Electric, Inc., was \$2,094,800, and with an estimated construction management and contingency cost of \$418,960, the estimated total project cost is \$2,513,760. Phase II and Phase III are expected to be reimbursed at 95% by the FAA or approximately \$2,388,072.

FISCAL CONSIDERATIONS:

Phase II and Phase III are expected to be reimbursed at 95% by FAA funds or approximately \$2,388,072 during Fiscal Year 2009.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego-Federal Prevailing wages apply to this contract.  
Goals: This project has a Fair Share goal of 8%.  
Subcontractor Participation: Certified Firms \$197,301, 14.2% Other Firms \$0, 0%  
Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan will have been submitted and analyzed. Staff will monitor the Plan and adherence to the City's Equal Opportunity Contracting and Non-Discrimination Ordinance.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

On May 27, 2008, based on Council Resolution Number R-303752, nine actions were approved to authorize the Mayor, or his representative, to make application to FAA for an estimated \$3,900,000, for the construction of Brown Field Airport Airfield Electrical System Upgrade - Phase II and Phase III, take all necessary actions to secure funding from FAA and to authorize the City Auditor and Comptroller to accept, appropriate, and expend funds if FAA grant funding is secured, in an amount not to exceed \$3,900,000.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the design stages, this project was presented to the Airport Advisory Committee (AAC) members, who are in favor of this capital improvement. The users of Brown Field Airport will be briefed at upcoming AAC meetings, by the Deputy Director of the Airports Division.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:Key Stakeholders:

1. HNTB (Design Consultant)
2. Select Electric, Inc. (Contractor - Low Bidder)
3. Vara Contractors (Concrete and AC)
4. Payco Specialties (Striping and Pavement Marking)
5. McCain Traffic (Airport Lighting)
6. CES (Conduit Wire)
7. US Concrete (Manholes)
8. Hali-brite, Inc. (Runway closure markers)
9. Brown Field Airport Users and businesses
10. FAA

Projected Impacts: The users of Brown Field Airport may encounter minor inconveniences during construction. After completion, users will experience improved safety.

Boekamp/Jarrell

Aud. Cert. 2900206.

Staff: Darren Greenhalgh - (619) 533-6600  
John H. Serrano - Deputy City Attorney

FILE LOCATION: W.O. 313000

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



- \* ITEM-101: Inviting Bids for the Construction of Sewer and Water Group 689. (Uptown Community Area. District 3.)

(See Engineering and Capital Projects Department's 7/16/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-1194 Cor. Copy)      ADOPTED AS RESOLUTION R-304172

Approving the plans and specifications for the construction of the Sewer and Water Group 689 as advertised by the Purchasing and Contracting Department, on Job Order No. 174821/187611;

Authorizing the Mayor, or his designee, after advertising for bids in accordance with the law, to establish contract funding phases and execute a contract with the lowest responsible and reliable bidder, provided the City Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditure under established contract funding phases are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$5,421,058, from Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacements, solely for construction, contingency, and Project-related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the expenditure of an amount not to exceed \$2,073,493 from Water Fund 41500, CIP-73-083.0, Annual Allocation - Water Main Replacements, solely for construction, contingency, and Project-related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the use of City Forces in Water Fund 41500, CIP-73-083.0 Annual Allocation - Water Main Replacement, solely for the construction of the Project in an amount not to exceed \$212,000;

Authorizing the expenditure in an amount not to exceed \$30,000 in property-related costs for Sewer Fund 41506, CIP-44-001.0, Annual Allocation - Sewer Main Replacement;

Stating for the record that the information contained in the Final Mitigated Negative Declaration No. 103533, including any comments received during the public review process, has been previously reviewed and considered by this Council and it is determined that no substantial changes or new information of substantial importance within the meaning of CEQA Guidelines Section 15162 would warrant any additional environmental review in connection with approval of the Project;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above Project. (BID K094112C)

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

Sewer and Water Group 689 is part of a program established by the City of San Diego and the California Department of Public Health mandating the replacement of all cast iron water mains currently in service. This project is located in Uptown Community Plan Area. This project includes the construction of approximately 9,850 linear feet of replacing existing 6-inch and 8-inch sewer mains, and the replacement of approximately 3,150 linear feet of existing 6-inch and 4-inch water mains and all other work and appurtenances. It also includes installing curb ramps and street resurfacing. The streets affected by Sewer and Water Group 689 are Ninth Avenue, Tenth Avenue, Johnson Avenue, Hayes Avenue, Lincoln Avenue, Vermont Street, Oneida Place, Oneida Way and the surrounding alleys and streets as shown on the location map. Contractor will prepare traffic control shop drawings and implement them during construction after review and approval by the City.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

Funding Agency: City of San Diego - Prevailing wages do not apply to this contract.

Goals: 10% Mandatory Subcontractor Participation Goal, 3% Advisory Participation Goal Disadvantaged Business Enterprise (DBE), 1% Advisory Participation Goal Disabled Veteran Business Enterprise (DVBE), 3% Advisory Participation Goal Other Business Enterprise (OBE)

Other: Prior to award, a workforce report, and if necessary, an Equal Opportunity Plan shall be submitted. Staff will monitor the Plan and adherence to the Nondiscrimination Ordinance. EOC staff will evaluate the bidder's compliance with SCOPE. Failure to comply with SCOPE will lead to the bid being declared non-responsive. This contract will be advertised for bids in the San Diego Daily Transcript, the City of San Diego's website, and the E-Bid Board. In addition, once implemented, the Bidder Registration Program will notify registered participants of bid opportunities. Prior to implementation of the Bidder Registration Program, the City will notify trade associations and eligible firms via fax and/or e-mail.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$7,494,551. Enterprise funding of \$5,421,058 will be available in CIP-44-001.0, Annual Allocation - Sewer Main Replacements, Fund 41506, Sewer, and enterprise funding of \$2,073,493 will be available in CIP-73-083.0, Annual Allocation - Water Main Replacements, Fund 41500, Water, for this purpose. The project costs for the Sewer portion of \$5,421,058 and the Water portion of \$2,073,493 may be reimbursed approximately 80% by current or future debt financing. This project is scheduled to be phase-funded over two fiscal years from FY09 to FY10. No future funding is anticipated. Contingent upon the availability of funds, the City Comptroller will issue an Auditor Certificate for each phase of the project.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Committee on Natural Resources and Culture on July 23, 2008, consent motion by Councilmember Atkins, second by Council President Peters. Vote to approve 4-0.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

This project was presented to the Uptown Planners on April 6, 2004 and September 5, 2006, Canyon Outreach on May 3, 2004, and University Heights Community Association on October 7, 2004. In addition, residents and businesses will be notified at least one (1) month before construction begins by the City's Engineering and Capital Projects Department and again, ten (10) days before construction begins by the Contractor through hand distribution of notices.

KEY STAKEHOLDERS AND PROTECTED IMPACTS (if applicable):

Residents in this area will encounter minor inconvenience during construction. After completion, residents will experience improved reliability of the sewer and water system. Rick Engineering Company was authorized to perform examination and investigation of subsurface conditions including properties of soil, geologic hazard, soil contamination and potential groundwater. RECON Environmental Company was authorized to prepare a biological study report for Buchanan Canyon.

Boekamp/Jarrell

FILE LOCATION: W.O. 174821/187611

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-102: Utility Agreement No. 31824 with CalTrans for Relocation of Existing Miramar Cross Pipeline into Maya Linda Road. (Mira Mesa and Scripps Miramar Ranch Community Areas. District 5.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-373) ADOPTED AS RESOLUTION R-304173

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of the relocation of the existing 36-inch Miramar Cross Pipeline into Maya Linda Road between Carroll Canyon and Gold Coast Roads;

Authorizing the expenditure of an amount not to exceed \$116,600, from Water Fund 41500, CIP-73-024.0, Annual Allocation Freeway Relocation, solely and exclusively, for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be constructing freeway widening improvements to Interstate 15 at Carroll Canyon Road. The City's existing 36-inch Miramar Cross Pipeline north of Carroll Canyon Road is adjacent to the western CalTrans right-of-way.

With the widening of Interstate 15 and the construction of a new southbound off-ramp at Carroll Canyon Road, the existing Miramar Cross Pipeline is impacted. Therefore, CalTrans will relocate the existing Miramar Cross Pipeline into Maya Linda Road between Carroll Canyon Road and Gold Coast Road. The existing Miramar Cross Pipeline is located in rights that are superior of CalTrans rights therefore, the cost of relocation will be paid 100% by CalTrans.

In addition to the cost of design and construction, CalTrans has agreed to reimburse the City its in-house engineering costs, City force work, inspection costs, and miscellaneous costs. Per the Utility Agreement, the maximum reimbursement to the City is \$116,600. In the event that the project costs exceed this amount, there is a provision in the agreement that would require an amendment to the Utility Agreement.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$116,600. Funding is available in Water Fund 41500, CIP-73-024.0, Annual Allocation - Freeway Relocation for this purpose. The project will be 100% cash funded and reimbursed by CalTrans 100%.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Natural Resources and Culture Committee approved this agreement on July 23, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

CalTrans

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water Department customers in the project area.

Ruiz/Barrett

Aud. Cert. 2900217.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-103: Utility Agreement No. 31789 with CalTrans for Replacement of Carroll Canyon Road Bridge Recycled Water Pipelines. (Mira Mesa and Scripps Miramar Ranch Community Areas. District 5.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-371) ADOPTED AS RESOLUTION R-304174

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of replacement of existing 14-inch and 16-inch recycled water pipelines in the new Carroll Canyon Road Bridge;

Authorizing the expenditure of an amount not to exceed \$1,175,522, from Water Fund 41500, CIP-73-024.0, Annual Allocation Freeway Relocation, \$1,061,522, for the purpose of executing said Utility Agreement and \$114,000 for project related costs, solely and exclusively, for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be constructing freeway widening improvements to Interstate 15 at Carroll Canyon Road. The existing Carroll Canyon Road Bridge will be demolished and replaced with a wider Carroll Canyon Road Bridge. The City's 14-inch and 16-inch recycled water pipelines located within the existing Carroll Canyon Road Bridge will require relocation due to the demolition of the existing Carroll Canyon Road Bridge. Therefore, CalTrans will replace the existing recycled water pipelines in the new Carroll Canyon Road Bridge with new pipe. The existing recycled water pipelines are located in rights that are not superior of CalTrans rights therefore, the cost of relocation will be paid 100% by the City.

Per the Utility Agreement, the maximum reimbursement to CalTrans is \$1,061,522. In the event that the project costs exceed this amount, there is a provision in the agreement that would require an amendment to the Utility Agreement.

FISCAL CONSIDERATIONS:

The total estimated cost of this project is \$1,175,522 and may be reimbursed approximately 80% by debt financing proceeds. Funding is available in Water Fund 41500, CIP-73-024.0, Annual Allocation - Freeway Relocation for this purpose.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

The Natural Resources and Culture Committee approved this agreement on July 23, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

CalTrans

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Water Department customers in the project area.

Ruiz/Barrett

Aud. Cert. 2900212.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



- \* ITEM-104: Utility Agreement No. 31788 with CalTrans for Carroll Canyon Road Bridge Potable Water Pipeline. (Mira Mesa and Scripps Miramar Ranch Community Areas. District 5.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-368)                      ADOPTED AS RESOLUTION R-304175

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of replacing the existing 16-inch potable water pipeline in the new Carroll Canyon Road Bridge;

Authorizing the expenditure of an amount not to exceed \$489,552, from Water Fund 41500, CIP-73-024.0 Annual Allocation-Freeway Relocation, \$423,552 for the purpose of executing said Utility Agreement and \$66,000 for project-related costs, solely and exclusively, for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be constructing freeway widening improvements to Interstate 15 at Carroll Canyon Road. The existing Carroll Canyon Road Bridge will be demolished and replaced with a wider Carroll Canyon Road Bridge. The City's 16-inch potable water pipeline located within the existing Carroll Canyon Road Bridge will require relocation due to the demolition of the existing Carroll Canyon Road Bridge. Therefore, CalTrans will replace the existing potable water pipeline in the new Carroll Canyon Road Bridge with a new pipeline. The existing potable water pipeline is located in rights that are not superior of CalTrans rights therefore; the cost of relocation will be paid 100% by the City.

Per the Utility Agreement, the maximum reimbursement to CalTrans is \$423,552. In the event that the project costs exceed this amount, there is a provision in the agreement that would require an amendment to the Utility Agreement.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$489,552 and may be reimbursed approximately 80% by debt financing proceeds. Funding is available in Water Fund 41500, CIP-73-024.0, Annual Allocation - Freeway Relocation for this purpose.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

The Natural Resources and Culture Committee approved this Agreement on July 23, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

CalTrans

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Water Department customers in the project area.

Ruiz/Barrett

Aud. Cert. 2900213.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. --10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-105: Utility Agreement No. 31767 with CalTrans for State Route 905 Relocation of the 24-Inch Otay Mesa Pipeline. (Otay Mesa Community Area. District 8.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-363) ADOPTED AS RESOLUTION R-304176

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of relocating the City's existing 24-inch Otay Mesa Pipeline;

Authorizing the expenditure of an amount not to exceed \$344,077, from Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation, solely and exclusively for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/08, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be constructing improvements to State Route 905 in the Community of Otay Mesa. The Water Department has an existing 24-inch pipeline known as the Otay Mesa Pipeline that will require relocation to facilitate work being constructed by CalTrans. The existing Otay Mesa Pipeline is located in rights that are superior of CalTrans rights therefore, the cost of relocation will be paid 100% by CalTrans.

In addition to the cost of design and construction, CalTrans has agreed to reimburse the City its in-house engineering costs, City force work, inspection costs, and miscellaneous costs. Per the Utility Agreement, the maximum reimbursement to the City is \$344,077. In the event that the project costs exceed this amount, there is a provision in the Agreement that would require an Amendment to the Utility Agreement.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$344,077. Funding is available in Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation for this purpose and will be reimbursed by CalTrans 100%.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

The Natural Resources and Culture Committee approved this agreement on July 23, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** CalTrans.**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Water Department customers in the Project Area.

Ruiz/Barrett

Aud. Cert. 2900215.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-106: Utility Agreement No. 31799 with CalTrans for State Route 52 Extension of El Monte Pipeline Protection Near Magnolia Avenue. (Outside of City Limits/City of Santee.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS**

Adopt the following resolution:

(R-2009-372) ADOPTED AS RESOLUTION R-304177

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of protecting the existing 68-inch El Monte Pipeline near Magnolia Avenue;

Authorizing the expenditure of an amount not to exceed \$56,000, from Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation, solely and exclusively for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be extending State Route 52 east from State Route 125 to State Route 67 in the City of Santee. The Water Department has an existing 68-inch pipeline known as the El Monte Pipeline that will require protection near Magnolia Avenue to facilitate work being constructed by CalTrans.

The existing El Monte Pipeline is located in rights that are superior of CalTrans rights therefore, the cost of relocation will be paid 100% by CalTrans.

In addition to the cost of design and construction, CalTrans has agreed to reimburse the City its in-house engineering costs, City force work, inspection costs, and miscellaneous costs. Per the Utility Agreement, the maximum reimbursement to the City is \$56,000. In the event that the Project costs exceed this amount, there is a provision in the Agreement that would require an Amendment to the Utility Agreement.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$56,000. Funding is available in Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation for this purpose. The Project will be 100% cash funded and reimbursed by CalTrans 100%.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

The Natural Resources and Culture Committee approved this Agreement on July 23, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** CalTrans.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Water Department customers in the Project Area.

Ruiz/Barrett

Aud. Cert. 2900218.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-107: Utility Agreement No. 31846 with CalTrans for State Route 52 Extension El Monte Pipeline Protection East of Magnolia Avenue, North of Prospect Avenue. (Outside of City Limits/City of Santee.)

(See Water Department's 6/23/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-374) ADOPTED AS RESOLUTION R-304178

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, a Utility Agreement with CalTrans, for the purpose of protecting the existing 68-inch El Monte Pipeline east of Magnolia Avenue, north of Prospect Avenue;

Authorizing the expenditure of an amount not to exceed \$56,000, from Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation, solely and exclusively for the purpose of providing funds for the abovementioned Utility Agreement and related costs, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15282(k)(pipelines less than one mile).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 7/23/2008, NR&C voted 4 to 0 to approve. (Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

CalTrans will be extending State Route 52 east from State Route 125 to State Route 67 in the City of Santee.

The Water Department has an existing 68-inch pipeline known as the El Monte Pipeline that will require protection east of Magnolia Avenue north of Prospect Avenue to facilitate work being constructed by CalTrans. The existing El Monte Pipeline is located in rights that are superior of CalTrans rights therefore, the cost of relocation will be paid 100% by CalTrans.

In addition to the cost of design and construction, CalTrans has agreed to reimburse the City its in-house engineering costs, City force work, inspection costs, and miscellaneous costs. Per the Utility Agreement, the maximum reimbursement to the City is \$56,000. In the event that the Project costs exceed this amount, there is a provision in the Agreement that would require an Amendment to the Utility Agreement.

**FISCAL CONSIDERATIONS:**

The total estimated cost of this project is \$56,000. Funding is available in Water Fund No. 41500, CIP-73-024.0, Annual Allocation-Freeway Relocation for this purpose. The project will be 100% cash funded and reimbursed by CalTrans 100%.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

The Natural Resources and Culture Committee approved this Agreement on July 23, 2008.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** CalTrans.

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:**

Water Department customers in the Project Area.

Ruiz/Barrett



Aud. Cert. 2900214.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-108: Agreement with Natural Resources Conservation Service (NRCS) for Emergency Water Protection (EWP) Grant Funds for the Dulzura Conduit Concrete Covers Project.

(See Water Department's 8/25/2008, Executive Summary Sheet.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-288) ADOPTED AS RESOLUTION R-304179

Authorizing the Mayor, or his designee, to apply for, accept and execute, for and on behalf of the City, an Agreement with the Natural Resources Conservation Service (NRCS) for Emergency Water Protection (EWP) grant funds for the Dulzura Conduit Concrete Covers Project, under the terms and conditions set forth in the Agreement;

Amending the Appropriation Ordinance to add CIP-75-941.0, Dulzura Conduit Concrete Covers, to the Fiscal Year 2009 Capital Improvements Program;

Authorizing the Mayor, or his designee, to transfer \$700,000 from Water DRES Reserve Account to CIP-75-941.0, Dulzura Conduit Concrete Covers, within Fund 41500 Water Department;

Authorizing the City Auditor and Comptroller to appropriate and expend an amount not to exceed \$700,000 from CIP-75-941.0, Dulzura Conduit Concrete Covers, Water Fund 41500, for the purpose of installing concrete covers along the Dulzura Conduit;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserve;

Declaring that this activity is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15269.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

On October 24, 2007, President George W. Bush declared California a major fire disaster, allowing federal funds to be made available to local governments of the fire affected areas in Southern California. Funding for debris removal and emergency post-fire protective measures against erosion from rain storms would shortly follow. In January 2006, City staff acted under the authority of the Mayor, to immediately address the protection from slope failure due to significant potential erosion threatening the safety of citizens and property.

The City hired a consultant, Geosyntec, to assess the fire affected residences, public roadways, City open space, as well as Water Department facilities that are at risk of damage from erosion and recommend mitigation plans for the most critical sites. The Water Department plans to implement the consultant's recommended mitigation measures for the Dulzura Conduit in order to preclude potential problems from exacerbating the damage the fire has already caused. Based on the consultant's assessment, the Water Department is planning on installing environmental water protection measures approved per the NRCS EWP Damage Survey Report 09-08-1200. This work consists of installing sections of concrete covers over the Dulzura Conduit at critical locations to reduce the risk for mud and debris flows entering the aqueduct as a result of the upstream burned watersheds.

The Water Department has applied to the NRCS for funding under the EWP Program. The EWP Program was instituted by Congress to remove imminent threats to life and property in the wake of natural disasters. NRCS has agreed to fund the project if an agreement is entered into by October 7, 2008. After that date, funding will be contingent upon availability of additional funding.

The project is not anticipated to result in increased staffing levels as project monitoring and oversight will be done by existing Water Department personnel.

EQUAL OPPORTUNITY CONTRACTING PROGRAM (EOCP):

The Dulzura Conduit Concrete Covers project will be awarded under the Mayor's authority to award contracts when the project and funding have been approved by Council. Prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with contract goals and the good faith effort. Failure to comply with the programs requirements will lead to the bid being declared non-responsive.

Funding Agency: U.S. Department of Agriculture's Natural Resources

Prevailing Wage: Does not apply.

FISCAL CONSIDERATIONS:

The costs of installation of the EWP measures are estimated at \$700,000. The City shall provide 17% (\$119,000) and NRCS will provide 83% (\$581,000) of the cost of constructing the emergency watershed protection measures.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was presented to the Natural Resources and Culture Committee on September 10, 2008, and approved (Frye, Faulconer, Peters in support; Atkins not present).

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public participation, outreach and support are provided through the City's Erosion Control Technical Assistance and Site Inspection hotline at (619) 980-6928.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City of San Diego water customers.

Ruiz/Barrett

Aud. Cert. 2900208.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-109: San Diego Flood Mitigation Plan. (Citywide.)

(See Report to the City Council No. 08-122.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-139) ADOPTED WITH DIRECTION AS  
RESOLUTION R-304209

Adopting the San Diego Flood Mitigation Plan, prepared by URS Corporation,  
dated June 15, 2007;

Declaring, that this activity is not subject to the California Environmental Quality  
Act (CEQA) per State CEQA Guidelines Section 15060(c)(2).

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 4 to 0 to forward this item to the full City Council.  
(Councilmembers Peters, Faulconer, Atkins, and Frye voted yea.)

**SUPPORTING INFORMATION:**

The Federal Emergency Management Agency's (FEMA) Flood Mitigation Assistance (FMA) Program was created as part of the National Flood Insurance Reform Act of 1994 (42 U.S.C. 4101) with the goal of reducing or eliminating claims under the National Flood Insurance Program (NFIP). FMA is a pre-disaster grant program that provides funding to states and

communities to assist in their efforts to reduce or eliminate the risk of repetitive flood damage to buildings and structures insurable under the NFIP.

The Engineering and Capital Projects Department applied for FMA's Planning Grant for the City of San Diego in order to create the City's first Flood Mitigation Plan. Because the City of San Diego is a participant in the NFIP, the City was selected by FMA as a recipient for this Planning Grant.

In December 2006, the City entered into an Agreement with Planning Consultant URS Corporation to develop the Flood Mitigation Plan (FMP) for the City of San Diego. Plan preparation included community outreach and extensive research.

A draft plan was submitted by URS to the City in May 2007. The plan was reviewed by City staff, and was placed on the City's website for public review. After all comments were compiled, a final plan was prepared for the City in June 2007. The plan describes potential flooding hazards faced by the City of San Diego, and provides mitigation solutions to reduce the number of properties currently at risk for flooding.

Formal adoption of the Plan by the City Council is a requirement of the federal funds. Once the plan is approved, the City will then be eligible to receive additional grant funds from FEMA to implement the mitigation projects proposed in the San Diego Flood Mitigation Plan. On 6/17/2008, FEMA approved the proposed Flood Mitigation Plan dated June 2007.

FISCAL CONSIDERATIONS:

This action requires no funding.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution Number R-301244, dated March 1, 2006:

- Authorized the City to apply to the Office of Emergency Services for the Flood Mitigation Assistance Planning Grant, and to accept the grant in the amount of \$50,000;
- Established CIP-13-200.0, San Diego River Flood Mitigation Plan;
- Transferred \$16,667 from General Services to fund the required 25% match;

Resolution Number R-302219, dated December 8, 2006;

- Authorized the City to enter into an Agreement with URS Corporation for the purpose of providing engineering services in the amount of \$50,800.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Engineering and Capital Projects staff has worked closely with the community to provide information about the plan, and to request input from citizens. A press conference was held by the Mayor on February 21, 2007, to highlight planning efforts and invite the community to participate in the plan by attending any of the public workshops that were held in La Jolla, Mission Valley, and San Ysidro. Additionally, a website was created where information could be obtained, the draft plan could be reviewed, and where comments and questions could be emailed to the project manager.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Key Stakeholder: City of San Diego

Projected Impacts: The approval of this action will make the City eligible for future grant monies needed for flood mitigation projects.

Boekamp/Jarrell

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:29 p.m. – 5:39 p.m.)

MOTION BY FRYE TO ADOPT WITH DIRECTION TO STAFF TO INCLUDE AUBURN CREEK IN THE FLOOD MITIGATION PLAN AND ALL COMMENTS MADE BY MR. JOHN STUMP FROM HIS LETTER DATED OCTOBER 7, 2008, TO BE ANNOTATED TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

ITEM-110: Agreement with Merkel and Associates, Inc., for As-Needed Biological Services 2009-2011 for the Metropolitan Wastewater Department.

(See Metropolitan Wastewater Department's 7/29/2008, Executive Summary Sheet and memorandum from Beryl Bailey Rayford dated 9/23/2008.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-241)            ADOPTED AS RESOLUTION R-304210

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with Merkel and Associates, Inc., to provide as-needed biological consulting services to the Metropolitan Wastewater Department, in an amount not to exceed \$2,000,000, with a contract duration of three years, under the terms and conditions set forth in the Agreement;

Authorizing the expenditure of an amount not to exceed \$2,000,000 in total, from Sewer Funds 41506, 41508, and 41509, solely and exclusively, to provide funds for the above Agreement;

Declaring that this activity is not subject to the California Environmental Quality Act pursuant to CEQA Guidelines Section 15060(c)(3);

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves.

**NATURAL RESOURCES AND CULTURE COMMITTEE'S RECOMMENDATION:**

On 9/10/2008, NR&C voted 3 to 0 to approve. (Councilmembers Peters, Faulconer, and Frye voted yea. Councilmember Atkins not present.)

**SUPPORTING INFORMATION:**

The Metropolitan Wastewater Department (MWWD) proposes to enter into an agreement with Merkel and Associates, Inc., to provide as-needed biological consulting services for the Metropolitan Wastewater Department (MWWD). The Agreement would be for a duration of three years and at a not-to-exceed amount of \$2,000,000.

MWWD's current contract for biological services has expired and MWWD anticipates continued need for as-needed biological consultant services in support of the department.

MWWD advertised and requested proposals for the 2009-2011 As-Needed Biological Services Contract in February 2008. Six proposals were received. A selection committee in compliance with MWWD guidelines was convened, and three companies were short-listed. The three gave presentations to the committee, and Merkel and Associates, Inc., was selected as the most qualified firm overall.

The As-Needed Biological Services Consultant will work with MWWD to support our implementation of the City's sewer inspection, cleaning, and maintenance program to comply with the United States Environmental Protection Agencies' Consent Decree. MWWD's ongoing Canyon Sewer Cleaning Program is focused on cleaning approximately 253 miles of non-right-of-way sewer pipelines, many of which are located within canyons or other environmentally sensitive areas. In many cases, maintenance access through these environmentally sensitive lands does not exist. In these cases, the creation of temporary or permanent access paths has resulted in the need for biological expertise to minimize environmental impacts, evaluate environmental impacts, and satisfy regulatory requirements.

The As-Needed Consultant also would assist with MWWD's Emergency Canyon Access Program. Work to be performed under this contract will be completed on a task by task basis, and requires environmental regulatory expertise to satisfy State and Federal compliance with the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA), as well as local and regional environmental compliance in support of MWWD operations. MWWD anticipates ongoing needs for biological surveys and monitoring; wetland delineations; environmental impact evaluations; preparation of mitigation, monitoring, and reporting programs (MMRP's); revegetation and habitat restoration plans; preparation of preliminary environmental constraints analyses and reports; water quality reports; construction monitoring; focused species surveys; acoustical analyses; preparation of contract drawings; access planning design; GIS mapping; regulatory permitting, and overall environmental document preparation. These tasks require MWWD to conduct work in a timely manner to meet required schedules and satisfy regulatory conditions.

FISCAL CONSIDERATIONS:

The total amount of this request is \$2,000,000. Funds are available from Sewer Funds 41506, 41508, and 41509.



PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This item was approved by the Natural Resources and Culture Committee on September 10, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Not applicable to this action.

KEY STAKEHOLDERS & PROJECTED IMPACTS (if applicable):

Merkel and Associates, Inc.

Ferrier/Barrett

Aud. Cert. 2900165.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:25 p.m. – 2:27 p.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-not present, Hueso-yea.

- \* ITEM-111: Agreement with A.B. Court and Associates for Professional Design Services for the Balboa Park California Tower Seismic Retrofit Project. (Balboa Park Community Area. District 3.)

(See memorandum from Beryl Bailey Rayford dated 8/7/2008.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-338) ADOPTED AS RESOLUTION R-304180

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an Agreement with A.B. Court and Associates for professional design services for the Balboa Park California Tower Seismic Retrofit Project (Project),

CIP-21-855.6, under the terms and conditions set forth in the Agreement, in an amount not to exceed \$450,000;

Authorizing the Mayor, or his designee, to accept the generous donations of \$10,000 from the Committee of 100 and \$10,000 from the San Diego Foundation for the completion of CIP-21-855.6, California Tower Seismic Retrofit Study, and deposit into Fund 63022, Private and Others Contribution - CIP;

Authorizing the City Auditor and Comptroller to appropriate and expend \$20,000 in donations from CIP-21-855.6, California Tower Retrofit Study, Fund 63022, Private and Others Contribution - CIP;

Authorizing the expenditure of an amount not to exceed \$280,000 from Fund No. 10365, Public/Private Partnership, CIP-21-855.6, California Tower Seismic Retrofit Project and \$170,000 from Fund No. 38254, BP - California Tower Seismic RE, CIP-21-855.6, California Tower Seismic Retrofit, for the purpose of providing funds for the Project;

Declaring that this project is exempt from California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15262.

**STAFF SUPPORTING INFORMATION:**

The proposed agreement with A.B. Court and Associates will provide the professional design services that are required for the preparation of the schematic, the construction plans and details, and the feasibility plans for the purpose of seismic retrofitting the historic California Tower in Balboa Park.

Balboa Park and its buildings are registered National Historic Landmarks visited by over 13 million visitors each year. An evaluation of the structures located in the historic core of Balboa Park was recently performed, and the California Tower was determined to be the highest priority. The California Tower is in need of structural stabilization to withstand moderate to major earthquakes. The building can also suffer significant irreparable damage in case of minor to moderate earthquakes. The only way to ensure the preservation of the building is through a comprehensive seismic retrofit. If left alone, the California tower could suffer a catastrophic failure beyond repair in case of a seismic event.

In conformance with Council Policy 300-7, four (4) structural engineering firms were interviewed to provide the design services for the subject project. As a result of the interview, A.B. Court and Associates was selected to provide the required design services. At the present time, project construction funding has not yet been identified. Upon completion of the design, construction funding will be secured and might be phase funded pending the availability of the fund.

FISCAL CONSIDERATIONS:

The negotiated total consultants' fee for the professional services for the subject project is \$450,000. The California Cultural and Historical Endowment (CCHE) allocated a grant of \$300,000 on January 12, 2007, to the project. The City Council previously authorized \$300,000 on January 27, 2006, via Resolution Number R-301189 as a 1:1 match to the CCHE grant. The City matching funds consisted of: \$20,000 from community organization(s) donations out of which \$10,000 was donated by the Committee of 100 and \$10,000 by the San Diego Foundation; Park & Recreation Department Matching Funds in the amount of \$20,426, from Fund 10365, Job Order 010000; \$69,391, Fund 10365, Org. 2444, Job Order 020000; and \$190,183, Fund 10365, Job Order 030000. A total of \$600,000 is available at this time to cover the professional services, in-house project management, permits and review costs.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Submitting a grant application to the California Cultural and Historical Endowment for planning costs related to the seismic retrofitting of the historic California Tower, Resolution Number R-301189 on January 27, 2006.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Committee of 100

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

California Cultural and Historical Endowment, Committee of 100, Park and Recreation Department, Museum of Man.

Boekamp/Jarrell

Aud. Cert. 2900187.

Staff: Cynthia Meinhardt - (619) 533-5259  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-112: Consultant Agreement with Mead and Hunt, Inc., for Brown Field Airport Master Plan Update. (Otay Mesa Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-386) ADOPTED AS RESOLUTION R-304181

Authorizing the City Comptroller to establish a special interest-bearing account, Brown Field Airport Master Plan Update Grant, Fund 10512;

Authorizing the Mayor, or his designee, to apply for and accept Federal Aviation Administration (FAA) grant funds in the sum of \$150,000, or any other amount appropriated by the FAA, for the Brown Field Airport Master Plan Update, to be deposited into Fund 10512;

Authorizing the City Comptroller to accept, appropriate and expend FAA funds, not to exceed \$150,000, for the Brown Field Airport Master Plan Update, after receipt of a fully executed grant Agreement;

Authorizing the City Comptroller to transfer the sum of \$350,000 from CIP-31-001.1, Brown Field Annual Allocation, to CIP-31-173.0, within Fund 10510, Brown Field Spec Aviation, for the Brown Field Master Plan Update;

Authorizing the Mayor, or his designee, to execute and deliver a Consultant Agreement with Mead and Hunt, Inc., for the Master Plan Update in the amount of \$435,150;

Authorizing the City Comptroller to permit the expenditure of an amount not to exceed \$435,150 for the Brown Field Airport Master Plan Update Consultant Agreement;

Authorizing the City Comptroller to transfer, upon advice from the administering department, any excess funds, if any, to the appropriate reserves.

#### **STAFF SUPPORTING INFORMATION:**

The last Master Plan for Brown Field Airport was completed in 1980. Since that time, there have been no updates or additional studies to address the current and future aviation needs in San Diego and the surrounding areas.

The objective of this new master plan project will be to provide the community and public officials with proper guidance for the long-term development of Brown Field Airport. This Master Plan Update project will comply with the FAA Airports Capital Improvement Program. The FAA has reserved \$150,000 for this Master Plan Update project. The consultant's master planning fee is for a total amount not to exceed \$435,150.

#### **Subconsultant Utilization**

In keeping with the City's policy to voluntarily provide subcontracting opportunities to all interested and qualified firms, Mead and Hunt, Inc., has retained the following subconsultants as members of their consultant team in connection with this project: Dudek and Associates, Inc., (Environmental Subconsultant) and Katz and Associates, Inc., (Community Outreach Subconsultant).

#### **EQUAL OPPORTUNITY CONTRACTING:**

Funding Agency: The total project cost is estimated at \$500,000. The consultant Airport Master Planning fee is estimated at \$435,150. \$150,000 in a FAA reimbursement grant is programmed.

Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)

Subconsultant Participation: \$144,870 Other Firms (33.29%)

Other: Work Force Analysis Report Submitted - Equal Opportunity Plan Required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

#### **FISCAL CONSIDERATIONS:**

The total estimated cost to prepare the Brown Field Airport Master Plan Update is \$500,000.00. When approved, the FAA will reimburse the City a total of \$150,000.00 for completing the Brown Field Airport Master Plan Update.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

During the planning stages, this Master Plan Update/project was presented to the Airport Advisory Committee (AAC). The users of Brown Field Airport will be briefed at upcoming AAC meetings, by the Deputy Director of the Airports Division.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

Key Stakeholders:

1. Mead & Hunt, Inc. (Prime Consultant)
2. Dudek and Associates, Inc. (Environmental Subconsultant)
3. Katz and Associates, Inc. (Community Outreach Subconsultant)
4. Brown Field Airport users and businesses
5. FAA Tower and Runway Safety Action Team.

Projected Impacts: None.

Tussey/Jarrell

Aud. Cert. 2900228.

Staff: Mike Tussey - (858) 573-1441  
John H. Serrano - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-113: Agreement with Rick Engineering Company for Professional Services for the Fashion Valley Road River Crossing Repair Hydrology and Beneficial Uses Studies for the Lower San Diego River Project. (Mission Valley Community Area. District 6.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-146)            ADOPTED AS RESOLUTION R-304182

Authorizing the Mayor to execute, for and on behalf of the City, an Agreement with Rick Engineering Company, for Professional Services for the Fashion Valley Road River Crossing Repair Hydrology and Beneficial Uses Studies for the Lower San Diego River (Project), under the terms and conditions set forth in the Agreement, together with any reasonably necessary modifications or amendments thereto which do not increase project scope or cost and which the Mayor shall deem necessary from time to time in order to carry out the purposes and intent of this project and agreement;

Authorizing the City Auditor and Comptroller to expend an amount not to exceed \$274,915 from Fund No. 38995, FHWA, CIP-13-502.0, Fashion Valley Road River Crossing Repair, for the purpose of providing funds for the above-referenced Project;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess funds, if any, to the appropriate reserves;

Declaring that this project is not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15060(c)(2) as the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment.

**STAFF SUPPORTING INFORMATION:**

In 2005, the California Regional Water Quality Control Board (CRWQCB) issued a certification for the repair of Fashion Valley Road where it crosses the San Diego River.

Two conditions of the certification were that the City would conduct both hydrology and beneficial uses studies of the lower San Diego River from the downstream terminus of Mission Gorge to the tidally influenced estuary at the Western end of Mission Valley. The scope of work/services for this contract will be to conduct these two studies to the satisfaction of the City and the CRWQCB. Work plans for both studies have been prepared by the City and reviewed by CRWQCB.

Because funding for the work will come from FHWA, a request for proposals (RFP) process was required. The City's Consultant Coordinator advertised for consulting services and ten (10) consulting firms attended a pre-proposal meeting. Of those, three (3) firms submitted proposals and were interviewed and rated on August 15, 2007. With its extensive work history of projects involving the San Diego River, Rick Engineering Company demonstrated that it had the required expertise, the available personnel, and the desire to provide the City with the professional services needed for this project.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: FHWA, City of San Diego  
Goals: 15% Voluntary (MBE/WBE/DEB/DVBE/OBE)  
Subcontractor Participation: \$9,500 Certified Firms (3.8%)  
\$47,000 Other Firms (18.8%)  
Other: Work Force Report Submitted-Equal Opportunity Plan required. Staff will monitor plan and adherence to Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

Funding for this action: \$274,915, is currently available in CIP-13-502.0, Fashion Valley Road Repair.

PREVIOUS COUNCIL ACTIONS:

City Council Resolution R-300078, adopted January 25, 2005, declaring that the failure of Fashion Valley Road constituted an emergency, and authorized the appropriation and expenditure of funds for the Fashion Valley Road Repair project.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.



STAKEHOLDERS:

Rick Engineering Company (Consultant)  
Helix Environmental Planning, Inc. (Subconsultant)  
Cvaldo Corporation (Subconsultant)  
Allied Geotechnical Engineer (Subconsultant)  
San Diego River Conservancy  
California Regional Water Quality Control Board

Boekamp/Jarrell

Aud. Cert. 2800922.

Staff: Jamal Batta - (619) 533-7482  
Ryan Kohut - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-114: Agreement with Collaborative Services for As-Needed Community Outreach Services. (Citywide.)

STAFF'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-159) ADOPTED AS RESOLUTION R-304211

Authorizing the Mayor, or his designee, to execute, for and on behalf of the City, an agreement with Collaborative Services for as-needed consultant services related to community outreach services for the Engineering and Capital Projects Department, in an amount not to exceed \$500,000, under the terms and conditions set forth in the Memorandum of Agreement (MOA);

Authorizing the expenditure of an amount not to exceed \$1,000 from Capital Outlay Fund 30245, CIP-21-865.0, Sewer Lateral Replacement for Balboa Park, Fund 30245 for community outreach services, solely and exclusively, for the purpose of providing funds for the above MOA and related costs, provided that the City Comptroller first furnishes one or more certificates certifying that the funds are, or will be, on deposit with the City Treasurer;

Authorizing the City Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15060(c)(3) and 15378(b)(5).

**STAFF SUPPORTING INFORMATION:**

The City currently does not have the capacity to perform community outreach services for various projects. A qualified and licensed consultant is being retained to provide this service. The City advertised the Contract and issued the Request for Proposal for As-Needed Community Outreach Services Agreement on August 20, 2007, in the San Diego Daily Transcript and in the City's website for bid and contract opportunities. Six (6) firms were short-listed to be interviewed by the interview/selection panel based on their proposal and evaluation criteria in the request for proposal. On January 28-30, 2008, the short-listed firms were interviewed by the interview/selection panel. Collaborative Services was selected as one of two firms highly qualified following a competitive selection and procurement process completed in accordance with the policies, procedures and guidelines in the City Council Policy 300-7, Consultant Services Selection, and the City's Administrative Regulation 25.70 on hiring of consultants other than Architects and Engineers.

The City will utilize the expertise of Collaborative Services in construction relations, media relations, community outreach, informational materials, in a timely and efficient manner. Collaborative Services has the expertise, experience and personnel necessary to provide the professional services on an as-needed, hourly fee basis. The City will pay Collaborative Services for performance of all Professional Services rendered in accordance with the Agreement, in an amount not to exceed \$500,000. Collaborative Services will employ their sub-consultants when needed.

EQUAL OPPORTUNITY CONTRACTING:

Funding Agency: City of San Diego  
Goals: 15% Voluntary (MBE/WBE/DBE/DVBE/OBE)  
Subconsultant Participation: \$75,000 Certified Firms (15%)(WBE), \$00,000, Other Firms (0%)  
Other: Workforce Report Submitted - Equal Opportunity Plan required. Staff will monitor plan, and adherence to the Nondiscrimination Ordinance.

FISCAL CONSIDERATIONS:

The City will pay Collaborative Services for performance of all Professional Services rendered in accordance with this Agreement, in an amount not to exceed \$500,000. The City agrees to issue at least one Task Order with a minimum aggregate value of \$1,000 to Collaborative Services. Funding for the minimum guarantee amount of \$1,000 will come from CIP-21-865.0, Sewer Lateral Replacement for Balboa Park, Fund 30245, Capital Outlay, for the purpose of executing this agreement. Future tasks will be funded from various City Department's budget.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTIONS:

There are no previous actions on this contract.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Collaborative Services is being retained to provide these services for the Engineering and Capital Projects Department.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Upon approval of the Agreement, Collaborative Services could receive up to \$500,000.

Boekamp/Jarrell

Aud. Cert. 2900181.

Staff: James Nagelvoort - (619) 533-5110  
Pedro De Lara, Jr. - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:27 p.m. – 2:43 p.m.)

MOTION BY HUESO TO ADOPT. Second by Peters. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-yea.

ITEM-115: Kellogg Park Play Area Upgrade. (La Jolla Community Area. District 1.)

(See memorandum from Council President Peters and Councilmember Faulconer dated 6/24/2008.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-362)            ADOPTED WITH DIRECTION AS  
RESOLUTION R-304212

Amending the Fiscal Year 2009 Capital Improvement Program Budget, by adding CIP-29-977.0, Kellogg Park Play Area Upgrade (Project);

Amending the Fiscal Year 2009 Capital Improvements Program Budget for CIP-29-977.0, Kellogg Park Play Area Upgrade, Fund No. 75914, La Jolla Developer Impact Fees, by increasing the budget amount by \$282,000;

Authorizing the appropriation and expenditure of an amount not to exceed \$282,000 from CIP-29-977.0, Kellogg Park Play Area Upgrade, Fund No. 75914, La Jolla Developer Impact Fees, solely and exclusively, for the purpose of providing funds for the Project, provided that the City Auditor and Comptroller first furnishes one or more certificates certifying that the funds necessary for expenditures are, or will be, on deposit with the City Treasurer;

Authorizing the City Auditor and Comptroller, upon advice from the administering department, to transfer excess budgeted funds, if any, to the appropriate reserves;

Declaring that this project is exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Existing Facilities).

**STAFF SUPPORTING INFORMATION:**

This project, the Kellogg Park Play Area Upgrade, CIP-29-977.0, will provide for the replacement of play area equipment which was removed due to safety concerns including corrosion and age of the equipment. The project will install new playground equipment in the

existing play area and will also install poured in-place resilient surfacing to meet Americans with Disabilities Act requirements.

The upgrade of the Kellogg Park Play Area will enhance the appearance of the play area and will provide additional opportunities for use of playground equipment by park visitors. The play area upgrade has been conceptually designed in conjunction with the community and within the guidelines of the associated community plans.

The Kellogg Park Play Area Upgrade is located within the La Jolla Community Area, north of the intersection of Camino Del Oro and Vallecitos Court. Funding for the play area upgrade has been made available from La Jolla Developer Impact Fees in the amount of \$282,000, which will fully fund the play area upgrade.

FISCAL CONSIDERATIONS:

The total project estimate for CIP-29-977.0, Kellogg Park Play Area Upgrade, is \$282,000.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The La Jolla Shores Association (LJSA) expressed support for this project at their June 2008, meeting during which Council President Peters' staff presented his proposal to fund the play area upgrade through the La Jolla Development Impact Fee fund. City staff will coordinate with the Ad Hoc Playground Equipment Committee of the LJSA on the design of the play area upgrade, as appropriate.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Friends of Kellogg Park, resident and visitor users of Kellogg Park from La Jolla, other parts of San Diego and beyond, and the La Jolla Shores Association. No adverse impacts have been identified.

EQUAL OPPORTUNITY CONTRACTING (EOC):

The Kellogg Park Play Area Upgrade project will be awarded under the Mayor's authority to award contracts after the project and funding have been approved by Council. Prior to award of any contract, a work force report, and if necessary, an Equal Opportunity Employment Plan shall be submitted. EOC staff will evaluate the bidder's compliance with contract goals and the good faith effort. Failure to comply with the programs requirements will lead to the bid being declared non-responsive.

Funding Agency: La Jolla Developer Impact Fees

Prevailing Wages: Not required.

Boekamp/Jarrell

Aud. Cert. 2900205.

Staff: Kevin Oliver - (619) 533-5139  
Shannon Thomas - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:14 p.m. – 2:25 p.m.)

MOTION BY HUESO TO ADOPT WITH DIRECTION THAT THE PROJECT NOT GO OUT TO BID FOR A MONTH IN ORDER TO MAINTAIN PRIVATE FUNDS AS REQUESTED BY COUNCIL PRESIDENT PETERS. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

\* ITEM-116: Justice Assistance Grant 2008 Block Grant (United States Department of Justice Assistance Grant).

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-271) ADOPTED AS RESOLUTION R-304183

Authorizing the Mayor, or his designee, for and on behalf of the City of San Diego, to apply for, accept, and expend the Justice Assistance Grant (JAG) funds from the U.S. Department of Justice;

Authorizing the Mayor, or his designee, to execute all aspects of program operation, including any amendments, extensions, or renewals, for a period of up to five years, provided funding is made available, and to certify that the City will

comply with all applicable statutory or regulatory requirements related to the JAG Program;

Authorizing the Mayor, or his designee, to enter into a Memorandum of Agreement with the County of San Diego as required by the Grant Program, and to allocate \$91,267 of the Grant monies to the County of San Diego;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend these Grant Funds, and to set-up a special fund for the purpose of tracking the Grant Funds;

Authorizing the City Auditor and Comptroller to execute the transfer of \$91,267 of these Grant Funds to the County of San Diego;

Declaring that any resources received under the JAG program shall be used to supplement and not to supplant expenditures controlled by this body; and that personnel positions, if any, funded under this Grant are not subject to local hiring freezes.

**STAFF SUPPORTING INFORMATION:**

The U.S. Department of Justice (USDOD), Bureau of Justice Assistance (BJA) has published solicitations and allocations for the 2008 Justice Assistance Grant (JAG) under the Edward Byrne Memorial Justice Assistance Grant Program.

The City and County of San Diego will receive a joint allocation of \$285,210 for 2008. Under USDOD regulations, the City and County must develop a joint application and spending plan that divides these Grant Funds. City and County have agreed to divide funds approximately as follows: City: \$193,943 (68%); County: \$91,267 (32%).

- The City of San Diego will use JAG Grant funds for police automation, vehicle, safety, forensic, overtime, and miscellaneous equipment and resources as needs are identified. The use of the JAG funds for these purposes will greatly enhance officer safety and public service. These uses meet the JAG program area of Law Enforcement. Funds will be used for one-time purchases with no recurring operation or maintenance requirements.

- The County of San Diego will use JAG Grant funds for a contractual drug court treatment and testing program; and for the officer assigned to the Probation Department's Community Resource Office Program (CROP) Officers work with the SDPD Gang Unit, participating in cooperative gang suppression activities within the City of San Diego.

EQUAL EMPLOYEMENT OPPORTUNITY: This program is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517)

FISCAL CONSIDERATIONS: None. There is no cash match requirement, and no requirement to continue Grant activities or expenditures after Grant Funds are depleted.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Lansdowne/Olen

Staff: Donna J. Warlick - (619) 531-2221  
Mary T. Nuesca - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



- \* ITEM-117: Grant Application to the State of California's Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program for FY 2009 Allied Gardens, City Heights, Memorial, and Vista Terrace Pool Programs. (Allied Gardens, City Heights, Memorial, and Vista Terrace Community Areas. Districts 3, 7, and 8.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-361)            ADOPTED AS RESOLUTION R-304184

Authorizing the Mayor, or designee, to make application to the State of California's Clean Air, Safe Parks, and Coastal Protection Act of 2002, Roberti-Z'berg-Harris Per Capita Block Grant Program [RZH Grant] for \$85,000 for the Allied Gardens Swimming Pool Programs, and \$212,080 for the Memorial and Vista Terrace Pool Programs (collectively, Projects);

Authorizing the Mayor, or designee, to take all necessary actions to secure the RZH Grant funds for the Projects;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend the RZH Grant funds if the grant is secured;

Authorizing the Mayor, or his designee, to make an application to Price Charities (Price Charities Grant) to secure an \$80,000 grant for the City Heights Swimming Pool Programs;

Authorizing the Mayor, or designee, to take all necessary actions to secure the Price Charities Grant funds for the City Heights Swimming Pool Programs;

Authorizing the City Auditor and Comptroller to accept, appropriate and expend the Price Charities Grant funds if the grant is secured;

Authorizing the City Auditor and Comptroller to establish a special interest-bearing account for the RZH Grant funds and the Price Charities Grant funds, upon receipt of fully executed Grant Agreements;

Declaring that these Projects are exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility these activities will result in a direct or reasonably foreseeable indirect physical change in the environment.

**STAFF SUPPORTING INFORMATION:**

In March 2002, California voters approved Proposition 40, the \$2.6 billion 2002 State Resources Bond "Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Act of 2002 (bond)." Based upon State Department of Finance population figures as of January 1, 2002, the City of San Diego will receive a total of \$11,063,430 on a Per Capita basis from the bond. On December 8, 2003, the Mayor and City Council approved Resolution R-298699, which included a distribution of the Per Capita/RZH Per Capita funds to each Council District, with a portion of the funding set-aside for projects with citywide and regional impact. On February 20, 2004, the City entered into an umbrella contract with the State of California for the 2002 Resources Bond Act Per Capita/RZH Per Capita Grant Program.

While most of the bond funding is restricted to use on capital improvements, the RZH funding can be used for innovative recreational programming. Embracing a philosophy of proactive charitable giving, Price Charities is committed to allocating a substantial portion of its charitable dollars to revitalizing City Heights, a low-income community in San Diego and is currently offering the City an \$80,000 grant.

Since 1994, Price Charities has worked with the community of City Heights to build an "Urban Village" in the core of the community. Price Charities has focused a large share of its charitable spending on working with the community of City Heights to develop innovative programs aimed at improving the schools, housing stock, public safety, and public health.

This action authorizes the Mayor, or his representative, to apply for \$212,000 a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 8 and \$85,000, a portion of the 2002 Resources Bond RZH Per Capita funding allocated to Council District 7 and to accept grant funding from Price Charities for \$80,000. The funds will provide one-time operating and maintenance funds, including staff costs, for Memorial Pool to remain open for a 10-week period, Vista Terrace Pool to remain open for a 14-week period and Allied Gardens Pool to remain open for an eight-week period and City Heights Pool to remain open for a nine-week period.

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FISCAL CONSIDERATIONS:

Due to budget constraints, City Heights Pool was scheduled to close for a period of 14 weeks on December 1, 2008, the Allied Gardens Pool was scheduled to close for a period of 14 weeks on December 29, 2008, the Memorial Pool was scheduled to close for a period of 14 weeks on October 27, 2008, and the Vista Terrace Pool was scheduled to close for 14 weeks on December 1, 2008.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: N/A

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The community has actively pursued funds to keep Allied Gardens, Memorial, Vista Terrace and City Heights Pools open to the public despite City budget constraints which necessitated closure. Council Members Hueso and Madaffer committed Council District 7 and Council District 8 grant funds. Price Charities awarded a grant to help pay costs to keep the pools open.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Stakeholders: CD 3, CD 7, and CD 8 constituents.

Impact: Allied Gardens to remain open from December 29, 2008, to February 22, 2009 (CD 7 Funds). City Heights Pool to remain open from January 5 to March 8, 2009 (Price Grant). Memorial Pool to remain open from October 27, 2008, to January 4, 2009 (CD 8 Funds). Vista Terrace Pool to remain open from December 1, 2008, through March 8, 2009 (CD 8 Funds).

LoMedico/Heap

Staff: Isabel Vargas - (619) 533-6526  
Kimberly Ann Davies - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-118: Fiscal Year 2008 Homeland Security Grant Program. (Citywide.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-134)            ADOPTED AS RESOLUTION R-304213

Declaring that the City Council has reviewed and hereby approves application for the FY08 Homeland Security Grant Program's Urban Area Security Initiative for up to \$15,510,500, which includes the following projects:

- Project A: 3Cs Data Network
- Project B: Regional Terrorism Threat Assessment Center
- Project C: Regional Interoperable Radio Communications Project
- Project D: Regional Preparedness via Interoperable Technology and Geospatial Data
- Project E: Strengthen Emergency Planning and Citizen Preparedness
- Project F: Critical Infrastructure and Key Resources Protection
- Project G: CBRNE/WMD Detection and Response Capabilities
- Project H: Integrated Records Management System
- Project I: Enhance Emergency Management Mutual Aid and Catastrophic Event Planning;

Authorizing the Mayor, Chief Operating Officer, or the Deputy Chief Operating Officer for Public Safety/Homeland Security, to apply to FEMA via the State Office of Homeland Security, and to take all necessary actions to secure grant funding under the FY08 Homeland Security Grant Program for up to \$15,510,500 in grant funds, and up to \$843,214 in State Homeland Security grant funds to assist in building and sustaining regional and City capabilities to protect against, respond to, and recover from threats or acts of terrorism, major disasters, and other emergencies;

Authorizing the City Comptroller to accept, appropriate and expend up to \$15,510,500 in grant funds, and up to \$843,214 in State Homeland Security grant funds, under the FY08 Homeland Security Grant Program for the purpose of building and sustaining regional and City capabilities to protect against, respond to, and recover from threats or acts of terrorism, major disasters, and other emergencies, contingent upon receipt of a fully executed Grant Agreement;

Authorizing the City Comptroller to establish a special interest-bearing fund for the grants.

**STAFF SUPPORTING INFORMATION:**

The City of San Diego has been identified by the federal Department of Homeland Security (DHS) as the "core city" for the San Diego Urban Area's participation in the federal FY 2008 Homeland Security Grant Program (HSGP), specifically the Urban Area Security Initiative (UASI). The Urban Area is defined as the 18 incorporated cities in San Diego County, unincorporated areas of the county and the related special districts. As the core city, San Diego will be the grantee and administrator of the UASI grant for the San Diego Urban Area. The FY 2008 UASI program provides financial assistance to address the unique multi-discipline planning, operations, equipment, training, and exercise needs of high-threat, high-density Urban Areas, and to assist in building and sustaining capabilities to prevent, protect against, respond to, and recover from threats or acts of terrorism, major disasters, and other emergencies.

The San Diego Urban Area has been awarded \$15,510,500 under the UASI grant. The FY08 Homeland Security Grant Program was a competitive process requiring Urban Areas to submit applications to formally request funding in support of State and Urban Area Homeland Security Strategies and related program planning documents. For FY 2008, funding for the UASI program was based on risk analysis methodology and anticipated effectiveness of planned investments. Risk is defined as Threat (likelihood of an attack) plus Vulnerability and Consequence (relative exposure and expected impact of an attack).

The San Diego Urban Area submitted its planned investments in the initial application phase. These investments address significant regional needs within the Urban Area as defined in our Regional Urban Area Security Strategy and include investments in the Regional Terrorism Threat Assessment Center, Interoperable Communications for both data and voice, Regional Interoperable Technology and Geospatial Data, Strengthening Emergency Planning and Citizen Preparedness, Critical Infrastructure and Key Resource Protection, CBRNE/WMD Detection and Response Capabilities, Integrated Records Management, and Catastrophic Event Planning.

Under the FY08 Homeland Security Grant Program, the City of San Diego is directly receiving \$537,950 in planning funds and minimally \$848,389 in equipment under the Urban Area Security Initiative Program. Additional equipment, training and exercise funds that are designated under regional projects will be provided to the City as the project allocations are further delineated.

The City is also receiving \$843,214 in funding awarded through the County of San Diego as the core county for the San Diego region under the State Homeland Security Program. The funding allocated to the City supports the planning needs for the Office of Homeland Security and provides funding for the San Diego Police Department and the San Diego Fire Department to enhance their prevention and response capabilities.

All funding must be allocated in support of the goals and objectives identified in the San Diego Urban Area Homeland Security Strategy that was developed as a prerequisite to participation in the HSGP and updated in 2007. A regional metropolitan area approach was taken in the development and implementation of this program by involving all 19 jurisdictions and mutual aid partners. While the focus of this program is to strengthen homeland security preparedness, the benefits will be seen in all of the emergency preparedness programs in the region.

FISCAL CONSIDERATIONS:

There is no non-federal match or cost share required for grants under the HSGP covered by this resolution. However, these grants are reimbursement in nature requiring the City, as the core city in the urban area, to expend funds prior to requesting reimbursement.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Resolution R-303571 adopted on April 23, 2008, authorized the Mayor, Chief Operating Officer, or the Deputy Chief Operating Officer for Public Safety/Homeland Security, to apply for, accept and expend grant funds from the FY 2008 Homeland Security Grant Program as the City's authorized agent, and to execute all agreements necessary to comply with the Homeland Security Grant Program. The State is now requiring that the resolution define the authorized "up to" dollar amount, as well as the projects within the UASI application.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Identified below.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The regional approach of the San Diego Urban Area's grant application impacts the 18 incorporated cities in San Diego County, the unincorporated areas of the county and the related special districts as well as contiguous jurisdictions and mutual aid partners.

These key stakeholders will derive significant improvement in response capabilities with better prepared, trained and equipped first responders.

The citizens of the San Diego region will benefit from an expanded public outreach program designed to increase public and private business involvement in emergency preparedness activities. This outreach will achieve a dramatic increase in the level of resident preparedness and self-reliance in the wake of a terrorism-related event or catastrophic natural disaster among the numerous diverse populations in the region. This program will save lives in both the general and special needs populations. A better prepared community, including the business community, will unburden first responders and other emergency services personnel and allow them to engage in high priority life saving activities. It will also speed recovery and reduce economic loss.

Olen

Staff: Donna Faller - (619) 533-6763  
Lori M. Thacker - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:24 p.m. – 5:29 p.m.)

MOTION BY YOUNG TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-not present, Hueso-yea.

\* ITEM-119: Donation of Ten (10) Vehicles from Ford Motor Company.

(See Report to the City Council No. 08-137.)

**STAFF'S RECOMMENDATION:**

Adopt the following resolution:

(R-2008-1132) ADOPTED AS RESOLUTION R-304185

Authorizing the Mayor, or his designee, to accept ten (10) vehicles from Ford Motor Company to be used by the San Diego Fire-Rescue Department.

**STAFF SUPPORTING INFORMATION:**

During the devastating wildfires in 2007, Ford Motor Company (Ford) generously donated ten (10) vehicles to the San Diego Fire-Rescue Department (Fire Department):

- Five (5) Ford 4x4 Expeditions
- Four (4) Ford Super Duty F250 4x4 Pickups
- One (1) Ford Super Duty F350 4x4 Pickup

The vehicles increased the mobility of our firefighters and brought critical field observers closer to areas affected by the fires. Getting those professionals out quickly let them determine the perimeter of the fires, search for hot spots, assist in fire containment efforts in certain areas and transport much-needed supplies to the fire line.

Since the wildfires, the San Diego Fire-Rescue Department has replaced old vehicles with the donated vehicles and permanently assigned them into three basic areas:

1. Ground support vehicles for Air Operations. Air Operations had been using hand-me-down vehicles which were nearly 20 years old. The four wheel drive pick-ups provided will allow them much better off-road capability and is better suited to their mission profile.
2. Staff vehicles for chief officers. (Shift Commanders, Special Operations Battalion Chief, and Training and Safety Officer.) These chief officers were historically in sedans that lacked the room for safety and command equipment and four-wheel drive which allowed them to command from forward locations closer to the challenges faced by our firefighters.
3. Logistical support functions to carry heavy loads and tow support trailers. Logistics personnel now have vehicles that will allow them to safely and effectively support the challenging missions of the department in both emergency and day-to-day operations.
4. The fires significantly impacted our community. They moved fast and their route was hard to predict given wind conditions at the time. We needed additional equipment in service immediately to help us get them under control. The vehicles from Ford helped us meet that challenge.

The partnership with Ford is a great collaboration with the public and private sectors and serves as an example of the continued success of the San Diego Fire-Rescue Department and Corporate Partnership Program to generate resources for public safety.

**FISCAL CONSIDERATIONS:**

The vehicles are valued at \$437,673.



PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY SAKEHOLDERS AND PROJECTED IMPACTS: Ford Motor Company.

Jarman/Olen

Staff: Jenny Wolff - (619) 236-7002  
William J. Gersten - Deputy City Attorney

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-120: Settlement of Personal Injury Claim to Jeffery Michael Taich.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-387) ADOPTED AS RESOLUTION R-304186

Authorizing the City Comptroller to issue a check in the amount of, but not exceeding, \$150,000, made payable to Gilliland and Gilliland, APLC Trust Account, resulting from the personal injury claim of Jeffrey Taich, U.S. District Court Case No. 07cv0383 JAH (JMA), in full and final settlement of the lawsuit and of all claims;

Authorizing the City Council to pay the sum of \$150,000 from the Public Liability Fund 81140.

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**SUPPORTING INFORMATION:**

The proposed settlement would resolve all claims brought by Jeffery Michael Taich.

**FISCAL CONSIDERATIONS:**

Settlement will be paid from the Public Liability Fund (81140) of \$150,000.00.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:**

This settlement has been heard in Closed Session on July 22, 2008. The City Council approved the settlement amount of \$150,000. The motion was made by Council President Pro Tem Madaffer and the second by Council President Peters. The motion passed 5 to 0 with Councilmembers Young, Maienschein, and Hueso absent.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:** N/A

**KEY STAKEHOLDERS AND PROJECTED IMPACTS:** N/A

Chung/Lewis

Aud. Cert. 2900209.

**NOTE:** The Auditor's Certificate was not requested prior to Closed Session. The vote taken in Open Session shall be the official vote.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

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- \* ITEM-121: Appointment to the San Diego City Employees' Retirement System Board of Administration.

(See memorandum from Mayor Sanders dated 9/9/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-284)            ADOPTED AS RESOLUTION R-304187

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the San Diego City Employees' Retirement System Board of Administration, for a term ending as indicated:

**NAME**

**TERM ENDING**

Mark Oemcke  
(Carmel Valley, District 1)  
(Replacing Peter Q. Davis,  
who has resigned)

March 31, 2009

**FILE LOCATION:**            MEET

**COUNCIL ACTION:**            (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-122: Appointments to the Wetlands Advisory Board.

(See memorandum from Mayor Sanders dated 9/22/2008, with resumes attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-389) ADOPTED AS RESOLUTION R-304188

Council confirmation of the following appointments and reappointments by the Mayor of the City of San Diego, to serve as members of the Wetlands Advisory Board, for terms ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Dr. Jeffrey Crooks (Tierrasanta, District 7) (Replacing Jim Whalen, who has resigned)	Representative with expertise in Coastal Salt Marsh	July 1, 2011
Brendan Reed (Downtown San Diego, District 2) (Replacing Donna Jones, who has resigned)	Representative with expertise in Marine Resources	July 1, 2011

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. ~10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-123: Appointment to the Human Relations Commission.

(See memorandum from Mayor Sanders dated 9/22/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-388) ADOPTED AS RESOLUTION R-304189

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Human Relations Commission, for a term ending as indicated:

**NAME**

**TERM ENDING**

Susan Hawk  
(El Cajon)  
(Replacing Keith Turnham,  
who is termed out)

July 22, 2011

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Susan Hawk is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Human Relations Commission. Therefore, a conscious exception to Council Policy 000-13 is hereby declared.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-124: Appointment to the Commission for Arts and Culture.

(See memorandum from Mayor Sanders dated 9/17/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-351)                      ADOPTED AS RESOLUTION R-304190

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Commission for Arts and Culture, for a term ending as indicated:

**NAME**

**TERM ENDING**

Sharletta Richardson  
(Mira Mesa, District 5)  
(Replacing Thomas DiZinno,  
who has resigned)

August 31, 2010

**FILE LOCATION:**                      MEET

**COUNCIL ACTION:**                      (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-125: Appointment to the Independent Rates Oversight Committee.

(See memorandum from Mayor Sanders dated 9/19/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-352) ADOPTED AS RESOLUTION R-304191

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the new Independent Rates Oversight Committee, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Christopher Dull (Escondido) (Replacing Lawrence Clemens, who has resigned)	Construction Management Professional	May 1, 2011

Declaring that pursuant to Council Policy 000-13, for purposes of deliberation and consideration of appointment, it is determined that Christopher Dull is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission. Therefore, a conscious exception to Council Policy 000-13 is hereby declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-126: Appointment to the Board of Library Commissioners.

(See memorandum from Mayor Sanders dated 9/19/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-349)            ADOPTED AS RESOLUTION R-304192

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Board of Library Commissioners, for a term ending as indicated:

**NAME**

**TERM ENDING**

Salvatore Giametta  
(Little Italy, District 2)  
(Replacing Mary Anne Pinter,  
who has resigned)

March 1, 2009

**FILE LOCATION:**            MEET

**COUNCIL ACTION:**            (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



\* ITEM-127: Appointment to the Qualcomm Stadium Advisory Board.

(See memorandum from Mayor Sanders dated 9/16/2008, with resume attached.)

**MAYOR SANDER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-350)                      ADOPTED AS RESOLUTION R-304193

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Qualcomm Stadium Advisory Board, for a term ending as indicated:

**NAME**

**TERM ENDING**

Kim Folsom  
(Scripps Ranch, District 2)  
(Replacing Regina Petty, who is termed out.)

January 1, 2012

**FILE LOCATION:**                      MEET

**COUNCIL ACTION:**                      (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-128: Appointment to the Citizens' Equal Opportunity Commission.

(See memorandum from Mayor Sanders dated 9/19/2008, with resume attached.)

**MAYOR SANDERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-376) ADOPTED AS RESOLUTION R-304194

Council confirmation of the following appointment by the Mayor of the City of San Diego, to serve as a member of the Citizens' Equal Opportunity Commission, for a term ending as indicated:

<u>NAME</u>	<u>CATEGORY</u>	<u>TERM ENDING</u>
Maurice Wilson (Lemon Grove) (Replacing James McManus, who has resigned)	(City-at-Large)	January 1, 2010

Declaring that pursuant to Council Policy 000-13, for the purposes of deliberation and consideration of reappointment, it is determined that Maurice Wilson is a resident of San Diego County, but not the City of San Diego, and has unique qualifications to serve as a member of the Commission; therefore, a conscious exception to Council Policy 000-13 is declared.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-129: AIDS Walk Day.

**MAYOR SANDERS' AND COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-276) ADOPTED AS RESOLUTION R-304195

Recognizing AIDS Walk and commending it for its contribution to HIV/AIDS service providers;

Proclaiming September 28, 2008, to be "AIDS Walk Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-130: Lani Lutar Day.

**COUNCIL PRESIDENT PETERS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-332) ADOPTED AS RESOLUTION R-304196

Proclaiming August 21, 2008, to be "Lani Lutar Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-131: Cabrillo Festival Week.

**COUNCILMEMBER FAULCONER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-331) ADOPTED AS RESOLUTION R-304197

Proclaiming September 22 through September 28, 2008, as "Cabrillo Festival Week" in the City of San Diego, and urging its fellow citizens to join in the commemoration of this historic event.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-132: Dogs of Kensington Calendar Day.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-277)            ADOPTED AS RESOLUTION R-304198

Commending Margaret Downing and Lilian Cooper for annually publishing the  
Dogs of Kensington Calendar;

Proclaiming September 17, 2008, to be "Dogs of Kensington Calendar Day" in  
the City of San Diego.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the  
following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea,  
Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-133: Peter Tereschuck Day.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-253)            ADOPTED AS RESOLUTION R-304199

Proclaiming August 21, 2008, to be "Peter Tereschuck Day" in the City of San  
Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

\* ITEM-134: David Rodriguez Day.

**COUNCIL PRESIDENT PRO TEM MADAFFER'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-299) ADOPTED AS RESOLUTION R-304200

Proclaiming September 12, 2008, to be "David Rodriguez Day" in the City of San Diego.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-135: Excusing Councilmember Toni Atkins from Attending the Special Closed Session Meeting Held on August 12, 2008.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-360)            ADOPTED AS RESOLUTION R-304201

Excusing Councilmember Toni Atkins from attending the Special Closed Session Meeting held on August 12, 2008.

**NOTE:** This item is not subject to the Mayor's veto.

FILE LOCATION:            AGENDA

COUNCIL ACTION:            (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-136: Excusing Councilmember Atkins from Attending the Regularly Scheduled Audit Committee Meeting Held on June 9, 2008.

**COUNCILMEMBER ATKINS' RECOMMENDATION:**

Adopt the following resolution:

(R-2009-359)            ADOPTED AS RESOLUTION R-304202

Excusing Councilmember Toni Atkins from attending the regularly scheduled Audit Committee Meeting held on June 9, 2008.

**NOTE:** This item is not subject to the Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-137: Excusing Councilmember Tony Young from Attending the Regularly Scheduled City Council Meetings of July 21-22, 2008.

**COUNCILMEMBER YOUNG'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-258) . ADOPTED AS RESOLUTION R-304203

Excusing Councilmember Tony Young from attending the regularly scheduled City Council Meetings of July 21, 2008, and July 22, 2008, because he was representing the City on public transportation issues at the American Public Transportation Association Conference.

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. -10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.



- \* ITEM-138: Excusing Councilmember Donna Frye from Attending the Regularly Scheduled City Council Meeting of August 12, 2008.

**COUNCILMEMBER FRYE'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-312) ADOPTED AS RESOLUTION R-304204

Excusing Councilmember Donna Frye from attending the regularly scheduled City Council Meeting of August 12, 2008, due to illness.

**NOTE:** This item is not subject to Mayor's veto.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-139: Declaring a Continued State of Emergency Regarding the Wildfires.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-39) ADOPTED AS RESOLUTION R-304205

Declaring a continued state of emergency to exist in the City of San Diego due to the wildfires which began on October 21, 2007, pursuant to California Government Code Section 8630;

Declaring that the measures previously taken by the City Council in Resolution No. R-303098 shall continue to have full force and effect.

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FILE LOCATION: GEN'L –State of Emergency Regarding the Wildfires

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-140: Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City.

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-57) ADOPTED AS RESOLUTION R-304206

Declaring a Continued State of Emergency Due to Severe Shortage of Affordable Housing in the City of San Diego.

FILE LOCATION: GEN'L – State of Emergency Due to Severe Shortage of Affordable Housing in the City

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-141: Declaring a Continued State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico. (District 8.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-1)                      ADOPTED AS RESOLUTION R-304207.

Declaring a Continued State of Emergency regarding the discharge of raw sewage from Tijuana, Mexico.

FILE LOCATION:                      GEN'L – State of Emergency Regarding the Discharge of Raw Sewage from Tijuana, Mexico

COUNCIL ACTION:                      (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

- \* ITEM-142: State of Local Emergency Declaration Regarding the Landslide on Mount Soledad.

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2008-1178)                      ADOPTED AS RESOLUTION R-304208

Declaring a continued state of emergency to persist relative to the landslide on Mount Soledad, pursuant to California Government Code Section 8630;

Declaring that the measures previously authorized by the City Council in Resolution No. R-303041 shall continue to have full force and effect.

FILE LOCATION: GEN'L – State of Emergency Regarding the Landslide on Mount Soledad

COUNCIL ACTION: (Time duration: 10:29 a.m. –10:36 a.m.)

CONSENT MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-330: Authorizing a Contract with Paul Plevin Sullivan & Connaughton, LLP for Outside Counsel Services in the Case of *Amy Lepine v. Michael Aguirre and City of San Diego*.

**CITY ATTORNEY'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-334) ADOPTED AS RESOLUTION R-304214

Authorizing the City Attorney to enter into a contract with Paul Plevin Sullivan & Connaughton, LLP, for outside counsel services for an amount not to exceed \$69,768.88;

Authorizing the City Comptroller to expend up to \$69,768.88, to be paid from the Public Liability Fund.

**SUPPORTING INFORMATION:**

On or about March 26, 2007, Amy Lepine filed a complaint for wrongful constructive termination in San Diego County Superior Court. The City needed outside legal counsel to represent the City in the case titled *Lepine v. Aguirre and City of San Diego*. Outside legal counsel was necessary because Amy Lepine is a former Deputy City Attorney and the complaint arises out of the actions allegedly taken by the City Attorney's Office and the City of San Diego. Paul Plevin Sullivan & Connaughton, LLP, has been identified as the firm best able to provide the necessary services within the required time frame. Representation costs amounted to \$69,768.88. Lepine dismissed the case with prejudice on July 11, 2008.

FISCAL CONSIDERATIONS:

\$69,768.88 to be paid from the Public Liability Fund.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 9, 2008, the City Council in Closed Session, Item CS-9, heard an update of the case and a motion for the retention of Paul Plevin Sullivan & Connaughton, LLP. Upon motion by Council President Pro Tem Madaffer and second by Councilmember Faulconer, the motion passed 7 to 1 with Councilmember Hueso voting no.

On May 12, 2008, the City Council in Closed Session, Item CS-2, heard a settlement offer by the Plaintiff. Upon motion by Council President Pro Tem Madaffer and second by Councilmember Hueso, the motion passed 6 to 0 with Councilmembers Young and Maienschein absent, to reject the settlement offer.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: N/AKEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

Paul Plevin Sullivan & Connaughton, LLP.

Tomanek

Aud. Cert. 2900097.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:43 p.m. – 2:44 p.m.)

MOTION BY FRYE TO ADOPT. Second by Peters. Passed by the following vote:  
Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea,  
Madaffer-yea, Hueso-nay.

ITEM-331: Agreement with Macias Gini and O'Connell, LLP for Outside Audit Services.

(See Independent Budget Analyst's 7/1/2008, Sole Source memorandum; FY 08 Scope of Audit Work; Draft engagement letter; and Proposed Schedule of Fees.)

**TODAY'S ACTION IS:**

Adopt the following resolution:

(R-2009-357)            ADOPTED AS RESOLUTION R-304215

Authorizing the Mayor, or his designee, to enter into an Agreement with Macias Gini and O'Connell, LLP, to audit the Fiscal Year 2008 financial statements of the City and its component units, and perform Single Audits of the City and Redevelopment Agency, as approved by the Audit Committee, in an amount not to exceed \$1,272,505;

Authorizing the Comptroller to expend up to \$1,260,505, solely and exclusively, for the purpose of providing funds for the above-referenced agreement, contingent upon the Comptroller first furnishing one or more certificates demonstrating that the funds necessary for such expenditures are on deposit in the City Treasury.

**AUDIT COMMITTEE'S RECOMMENDATION:**

On 7/7/2008, Audit voted 3 to 0 to have the Independent Budget Analyst work with Purchasing to finalize the contract documents, including the scope of work, and forward them to the full City Council for approval. (Councilmembers Faulconer, Atkins, and Young voted yea.)

**SUPPORTING INFORMATION:**

On July 7, 2008, the IBA provided the Audit Committee with a draft of a Sole Source Agreement with Macias Gini & O'Connell LLP (MGO) for the FY 08 Financial Statement Audit, as well as a copy of the IBA Sole Source Memorandum (Attachment 1). The proposed Schedule of Fees for multi-faceted audit work was initially \$1,260,505, of which approximately \$812,000 was for the FY 08 Financial Statement Audit. The remaining balance includes the financial audits of the component units and Single Audits of the RDA and the City.

After discussing the proposed contract, the Audit Committee referred the proposed contract to the City Council for consideration. Additionally, Audit Committee directed the IBA to work with the Purchasing Department to finalize the contract (Attachment 2) for City Council consideration and requested that the IBA research and report back on outside audit costs that other comparable public agencies incur for their financial statements audits.

At the September 5, 2008 meeting of the Audit Committee, the IBA presented Report #08-96 (Attachment 3), in which the IBA presented information on financial statement audits costs at other agencies and feedback from MGO related to their fee proposal. After accepting the IBA report, the Audit Committee referred the report, along with the previously forwarded contract, to the City Council. At the request of the Office of the Chief Financial Officer, the amount of the agreement was subsequently increased by \$60,000 to cover the proposed cost of five "consent letters" needed to support anticipated bond offerings in FY 09. The not-to-exceed amount of the agreement is now \$1,272,505.

FISCAL CONSIDERATIONS:

The total amount of this request is \$1,272,505. All audit costs will be charged directly to the benefiting funds under audit pursuant to the schedule and consistent with the Cost Allocation Formula.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On July 7, 2008, the Audit Committee forwarded an Agreement with Macias Gini & O'Connell LLP, to Council for approval. Past City Council Resolutions to approve and/or amend outside auditor agreements:

- Resolution R-303768 dated 05/27/2008.
- Resolution R-302879 dated 07/24/2007.
- Resolution R-302153 dated 12/04/2006.
- Resolution R-300771 dated 08/08/2005.
- Resolution R-299905 dated 11/29/2004.

EQUAL OPPORTUNITY CONTRACTING:

This agreement is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. O-18173, Sections 22.2701 through 22.2702) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.2517).

Funding Agency: City of San Diego  
Goals: 15% Voluntary  
Subconsultant Participation: None.

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Other: Workforce Report Submitted - Equal Opportunity Plan required.  
Staff will monitor plan and adherence to Nondiscrimination  
Ordinance.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: None.

Kawar/Tevlin

Aud. Cert. 2900238.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:44 p.m. – 2:45 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the  
following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea,  
Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-332: Fiscal Year 2009 Annual Audit Work Plan.

(See memorandum from City Auditor dated 9/4/2008; City Auditor's July 2008,  
FY 09 Work Plan; and City Auditor's 9/08/2008, Power Point.)

TODAY'S ACTION IS:

Adopt the following resolution:

(R-2009-358) ADOPTED WITH DIRECTION AS  
RESOLUTION R-304216

Approving the Fiscal Year 2009 Annual Audit Plan.



**AUDIT COMMITTEE'S RECOMMENDATION:**

On 9/08/2008, Audit voted 3 to 0 to approve the Fiscal Year 2009 Annual Audit work Plan and forward to Council. (Councilmembers Atkins, Faulconer and Young voted yea.)

**SUPPORTING INFORMATION:**

The Kroll Report made specific recommendations regarding establishing risk-based plans to determine internal audit priorities. Generally Accepted Government Auditing Standards and the Institute of Internal Auditors' Standards require the Chief Audit Executive to establish a risk-based approach to determine the priorities for internal audit activities. In February 2008, the Internal Auditor's Office issued a Citywide Risk Assessment as a means to help identify, measure, and prioritize the City's potential audits based on the level of risk to the City. The *Citywide Risk Assessment results were utilized in developing the Fiscal Year 2009 Annual Audit Work Plan.*

In July 2008, the Office of the City Auditor issued the Fiscal Year 2009 Annual Audit Work Plan that included 17 performance audits of various City departmental activity groups and five other audit projects and activities. The Audit Work Plan was developed by considering the required audits mandated by the City Charter and the San Diego Municipal Code as well as the results of the Citywide Risk Assessment. We designed our work plan to address what we considered to be the highest priority areas, while limiting the scope of work to what we can realistically accomplish with the staff resources available. Included is the proposed audit objective for each assignment and estimated audit hours.

We plan to perform an in-depth risk assessment on each activity group selected for audit to ensure our audit objective covers the areas of highest risk for that activity group and adjust the audit objective, procedures, and hours accordingly. Our estimated audit hours are based on our knowledge of the complexity of the activity groups selected for audit.

In September 2008, the Office of the City Auditor issued a revised Audit Work Plan to address Mayor Sanders and Councilmember Faulconer's request for performance audits of City agencies, including the Centre City Development Corporation, San Diego Convention Center Corporation, San Diego Data Processing Corporation, and San Diego Housing Commission. This revised work plan was presented to Audit Committee on September 8, 2008, and was approved by the members of the Committee.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

On September 8, 2008, the Audit Committee approved a motion to forward to the City Council the Fiscal Year 2009 Annual Audit Work Plan.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS: N/A

Luna/Goldstone

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 3:00 p.m. – 3:29 p.m.)

MOTION BY FAULCONER TO ADOPT WITH DIRECTION TO THE AUDIT COMMITTEE TO HAVE A POLICY ORDINANCE WRITTEN TO CREATE A PROCESS FOR THE AUDITOR TO BRING ISSUES TO THE FULL CITY COUNCIL. Second by Young. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-333: 2008 Temporary Winter Shelter Program (Northerly one-half of block bounded by 15<sup>th</sup> and 16<sup>th</sup> Streets and Island Avenue and J Street) Contract with HTA Engineering and Construction and Request to Fund Installation of Temporary Infrastructure Improvements. (East Village Redevelopment District of the Expansion Sub Area of the Centre City Redevelopment Project. District 2.)

(See Centre City Development Corporation Report No. CCDC-08-29/  
CCDC-08-17.)

CENTRE CITY DEVELOPMENT CORPORATION'S RECOMMENDATION:

Adopt the following resolution:

(R-2009-356 Cor. Copy) ADOPTED AS RESOLUTION R-304217

Finding and determining that the proposed Project benefits the Centre City Redevelopment Project ("Project Area") or the immediate neighborhood in which the Project is located;

Declaring that no other reasonable means of financing is available to the community;

Declaring that the payment of funds will assist in the elimination of blighting conditions inside the Project Area;

Adopting the proposed Project consistent with the Implementation Plan for the Project Area pursuant to Health and Safety Code 33490.

**SUPPORTING INFORMATION:**

The Site is currently an unoccupied, fenced, dirt lot planned for future development. Necessary infrastructure improvements would include clearing, grubbing, grading, removal of barbwire on top of an existing six-foot fence, additional fencing and screening, utilities, paving and lighting. Only the area needed for the Program would be improved. The rest of the Site will be cleared of brush for safety, but would remain a dirt lot.

The temporary infrastructure improvements would need to be completed by early November 2008. This deadline precludes the normal public works construction contract design, bid and build process due to time constraints. The sole source memorandum more fully explains the justification for a sole source contract.

**FISCAL CONSIDERATIONS:**

Agency funds in the amount not to exceed \$200,000 are available in the Fiscal Year 2009 East Village Budget.

**CENTRE CITY DEVELOPMENT CORPORATION RECOMMENDATION:**

The Corporation will not consider this item prior to the Agency consideration on October 7, 2008, due to time constraints.

Allsbrook/Kaiser

Aud. Cert. 2900224.

**NOTE:** See the Redevelopment Agency Agenda of October 7, 2008, for a companion item.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 4:37 p.m. – 4:38 p.m.)

MOTION BY FAULCONER TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-recused.

ITEM-334: San Ysidro Community Plan Update. (San Ysidro Community Area. District 8.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

Subitem-A: (R-2009-247) ADOPTED AS RESOLUTION R-304218

Initiating the requested amendment to the City of San Diego General Plan and update of the San Ysidro Community Plan for the purpose of facilitating a comprehensive analysis of the various Plan components, elements, and policies of both community plans and preparation of any necessary revisions to adopted documents;

Subitem-B: (R-2009-248) ADOPTED AS RESOLUTION R-304219

Accepting the transfer of funds from the Redevelopment Agency in the amount not to exceed \$2,000,000; Authorizing the appropriation and expenditure of the funds for the San Ysidro Community Plan Update;

Declaring that this activity is not a "project" and is therefore not subject to the California Environmental Quality Act (CEQA), pursuant to State CEQA Guidelines Section 15060(c)(3);

Directing the City Attorney to prepare the appropriate resolutions and/or ordinances in accordance with Charter Section 40.

**STAFF SUPPORTING INFORMATION:**

The City of San Diego City Planning and Community Investment Department ("CPCI") proposes a comprehensive San Ysidro Community Plan Update ("CPU"). The community of San Ysidro comprises approximately 1,863-acres, and is located along the International Border, where Interstate 5 and 805 merge.

The purpose of the CPU is to revise the Community Plan to reflect current conditions and the long-term vision for the San Ysidro community, including coordination with the Federal Government on its master plan efforts for the San Ysidro Port of Entry Reconfiguration and Expansion Project. The CPU shall also ensure consistency with the community's land use policies, and create a viable plan to support the business community, improve traffic circulation and mobility, facilitate residential development, and to adequately plan for public infrastructure and facilities.

The proposed actions are to consider initiating the CPU, and to transfer the necessary funding to the City to proceed with this significant planning effort. In May 2009, the Agency approved the Fiscal Year 2009 Expenditure Budget, which included \$1,000,000 for the CPU effort. Since then, the CPU estimate has increased to approximately \$2,000,000, due to the increased CPU proposed Scope of Work, and more accurate cost estimates that have been generated by staff for other similar CPU efforts within the City.

Funding for the CPU is available from the San Ysidro Project Area Fund. However, Federal funds to offset the CPU cost may become available through a CalTrans' application of the Transportation Border Congestion Relief Program (TBCR), or other State or Federal funding programs.

Major components of the CPU shall include the preparation of an Economic and Fiscal Impact Analysis and an Environmental Impact Report ("EIR") that will evaluate cumulative impacts of proposed future development activities. The CPU shall also assess possible locations for a major intermodal facility, and will facilitate the establishment of City-wide zones for implementation of the Mi Pueblo Pilot Village Area. Other CPU components shall include processing amendments to the City's Local Coastal Program and the San Ysidro Redevelopment Plan.

If approved, the CPU is anticipated to take approximately 24 to 30 months to complete from the time Council approves a consultant contract to initiate the CPU, following a comprehensive Request for Proposal ("RFP") selection process. A consultant contract for the proposed CPU is slated to be considered by Council in March 2009. The following table provides a tentative timeline for the CPU RFP process.

<u>Date</u>	<u>Task</u>	<u>Anticipated time to complete task</u>
October 7, 2008	Council to consider initiating CPU, and approve funding to proceed with RFP.	One day
November 2008	RFP notice for soliciting consultant Proposals.	1-2 months
January 2009	Review of RFP proposals	2 months
February 2009	Negotiation of consultant contract	1 month
March 2009	Council considers consultant contract	1 month
April 2009	Formally initiate CPU process	24 to 30 months

The bulk of the CPU effort shall take place within the San Ysidro Redevelopment Project Area ("Project Area"), which encompasses approximately 766-acres or 40% of the total San Ysidro land area. It is anticipated that the majority of the Scope of Work, including technical studies, land use modifications, and economic analysis will take place within the Project Area, because the area outside the Project Area is predominately stable residential neighborhoods that may require little or no planning efforts or modifications.

Although portions of the CPU are outside of the Project Area, because of its close proximity to the Project Area including proposed major redevelopment sites, it is anticipated that the CPU shall be beneficial to achieving the general goals of the San Ysidro Redevelopment Plan, which include:

1. Promoting San Ysidro as an international gateway, and supporting the growth and vitality of the area's business environment and employment needs;
2. Enhancing public infrastructure, and improving mobility and transportation facilities; and
3. Facilitating varied housing opportunities, including affordable housing.

Lastly, the proposed CPU and relevant technical studies (i.e., Environmental Impact Report, traffic analysis, economic feasibility, etc.) may serve to provide time and cost savings to future projects such as the Mi Pueblo Pilot Village, the east and west vacant parcels at Las Americas, and the non-federal properties located adjacent to the Federal Government's Port of Entry Reconfiguration and Expansion Project.

ENVIRONMENTAL IMPACTS:

The proposed CPU is not a project and is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15060(c)(3).

FISCAL CONSIDERATIONS:

The cost of the CPU is estimated not to exceed \$2,000,000. Funding is available from the San Ysidro Project Area Fund.

PREVIOUS COUNCIL AND/ OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On July 15, 2008, San Ysidro Community Planning Group unanimously voted 10-0-0 in support of initiating and funding the San Ysidro Community Plan Update (CPU). There is no Project Area Committee (PAC) in San Ysidro.

KEY STAKEHOLDERS AND PROJECTED IMPACTS (if applicable):

The key stakeholders and projected impacts associated with the community plan update will be identified during the update process.

WeinrickAnderson

Staff: Xavier Del Valle - (619) 236-6260

NOTE: See the Redevelopment Agency Agenda of October 7, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 4:42 p.m. – 4:43 p.m.)

MOTION BY HUESO TO ADOPT. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-335: Nancy Ridge Business Park, Project No. 114358. Site Development Permit, Planned Development Permit, Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment, and Rezone from AR-1-1 to IL-2-1, within Environmentally Sensitive Lands to construct two graded level pads for outdoor storage use only and an access road on two parcel lots of 25.79 acres. The property is located on the south side of Nancy Ridge Drive, south of Carroll Canyon Road intersections, and north of the Coaster railway. (Mira Mesa Community Plan Area. District 5.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Planned Development Permit, Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment, and Rezone from AR-1-1 to IL-2-1, within Environmentally Sensitive Lands to construct two graded level pads for outdoor storage use only and an access road on two parcel lots of 25.79 acres. The property is located on the south side of Nancy Ridge Drive, south of Carroll Canyon Road intersections, and north of the Coaster railway in the AR-1-1, Airport Environs, Accident Potential Zone 1, MCAS Airport Influence Area, Brush Management, Multiple Habitat Planning Area, Floodplain Zone "A," Community Plan Implementation Zone "B," and Residential Tandem Parking Zones within the Mira Mesa Community Plan Area.

**\* Unless otherwise noticed or stated on the record at the hearing, if an ordinance is approved and introduced by the City Council, it will automatically be scheduled for a hearing by the City Council for final passage at 10:00 a.m. on the Tuesday two weeks after the subject hearing.**

(MND No. 114358/MMRP/PDP No. 385298/SDP No. 385300/RZ No. 387102/MHPA Boundary Line Adjustment.)

**STAFF'S RECOMMENDATION:**

Adopt the resolutions in Subitems A and B; and introduce the ordinance in Subitem C:

Subitem-A: (R-2009-295)                      ADOPTED AS RESOLUTION R-304220

Adoption of a Resolution certifying Mitigated Negative Declaration No. 114358 has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administration Code Section 15000 et seq.), that the declaration reflects the independent judgment of the City of San



Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City Council in connection with the approval of a site development permit/planned development permit/multi-habitat planning area boundary line adjustment and rezone for the Nancy Ridge Business park project;

That project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study to below a level of significance; therefore, said Mitigated Negative Declaration No. 114358 is approved;

That pursuant to California Public Resources Code, Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment;

Directing the City Clerk to file a Notice of Determination [NOD] with the clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-294) ADOPTED AS RESOLUTION R-304221

Adoption of a Resolution certifying findings supported by the minutes, maps and exhibits, with respect to Site Development Permit No. 385300, Planned Development Permit No. 385298, and a Multi-Habitat Planning Area (MHPA) boundary line adjustment;

That Site Development Permit No. 385300, Planned Development Permit No. 385298, and the Multi-Habitat Planning Area (MHPA) boundary line adjustment is granted to Nancy Ridge Business Park, LLC, Owner/Permittee, under the terms and conditions set forth in the permit.

Subitem-C: (O-2009-40) INTRODUCED, TO BE ADOPTED  
TUESDAY, OCTOBER 21, 2008

Introduction of an Ordinance rezoning 13.95 acres located within the Mira Mesa Community Plan Area from the AR-1-1 Zone into the IL-2-1 Zone, as defined by San Diego Municipal Code Section 131.0603; And repealing Ordinance No. 18451 (New Series), adopted December 9, 1997, of the Ordinances of the City of San Diego insofar as the same conflicts herewith.

**OTHER RECOMMENDATIONS:**

Planning Commission voted 4-0-3 to recommend approval.

Ayes: Golba, Griswold, Naslund, Otsuji

Absent: Ontai, Schultz, Smiley

On January 22, 2007, the Mira Mesa Community Planning Group voted unanimously to approve the project.

**STAFF SUPPORTING INFORMATION:****REQUESTED ACTION:**

Approval of the Nancy Ridge Business Park Project, a request for the development of an outdoor storage area on two undeveloped parcel lots of 25.79 acres at 5909 Nancy Ridge Drive, east of Interstate 805 and north of Eastgate Drive in the Mira Mesa Community Plan Area.

**STAFF RECOMMENDATIONS:**

1. Adopt Resolution and certify Mitigated Negative Declaration No. 114358 and adopt the Mitigation Monitoring and Reporting Program;
2. Adopt Resolutions and approve Planned Development Permit No. 385298, Site Development Permit No. 385300, and Multi-Habitat Planning Area (MHPA) Boundary Line Adjustment; and
3. Adopt Ordinance to rezone 13.95 acres from AR-1-1 to IL-2-1.

**EXECUTIVE SUMMARY:**

The Nancy Ridge Business Park project is located across two undeveloped parcel lots of 25.79 acres at 5909 Nancy Ridge Drive, and the adjoining southern parcel, south of Carroll Canyon Road, within the Mira Mesa Community Plan. The project proposes the construction of a paved, non-standard access driveway from Nancy Ridge Drive to an outdoor storage area. The outdoor storage area would consist of two graded pad areas for a total of 4.2 acres. Both pads would be covered with Class two base gravel material.

A Site Development Permit and a Planned Development Permit are required to construct the two step-down, flat pad areas, and a driveway totaling approximately 6.17 acres within Environmentally Sensitive Lands for Steep Hillside and Sensitive Biological Resources on-site. The project site is currently zoned AR-1-1 (Agricultural-Residential). In order to allow for the proposed outdoor storage use, a rezone from AR-1-1 to IL-2-1 (Industrial-Light) is requested for 13.95 acres. Also, according to the City of San Diego Land Development Code, "where the

MHPA covers less than 75 percent of a premise, no development will be allowed within the MHPA." The project's biology report indicates the MHPA covers approximately 16.05 acres (62 percent) of both parcels combined. In order to construct the project, a MHPA Boundary Line Adjustment is also requested.

The proposed MHPA Boundary Line Adjustment was approved by the California Department of Fish and Game and the U.S. Department of Interior Fish and Wildlife Service on January 16, 2008, which would remove approximately 3.66 acres of sensitive habitat from the MHPA within the proposed development area, and add approximately 8.02 acres of MHPA habitat on-site within an approved City conservation easement for a total net gain of approximately 4.36 acres.

As proposed, the project complies with the applicable sections of the Municipal Code and adopted City Council Policies. City Staff has prepared resolutions, an ordinance, and the permit for the project and recommends approval.

FISCAL CONSIDERATION:

All costs associated with the processing of this project are paid by the applicant.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On January 22, 2007, the Mira Mesa Community Planning Group voted unanimously to approve the project.

On July 17, 2008, the City of San Diego Planning Commission voted 4-0-3 to recommend approval of the project with no additional conditions.

KEY STAKEHOLDERS:

Nancy Ridge Business Park, L.L.C., owner/applicant  
Mira Mesa Community Planning Group

Anderson/Broughton

LEGAL DESCRIPTION:

The project site is located at 5909 Nancy Ridge Drive within the Mira Mesa Community Plan Area, Residential Tandem Parking Overlay Zone, Marine Corps Air Station Miramar Airport Influence Area, Accident Potential Zone 2, Airport Environs Overlay Zone, FAA Part 77 Notification Area, Environmentally Sensitive Lands, and Floodway-100 and Floodplain-100 Zones and is more particularly described as Parcel 1, the north half of the southeast quarter of the northeast quarter, in Section 9, Township 15 South, Range 3 West, San Bernardino Base

Meridian, in the City of San Diego, County of San Diego, State of California (APN 343-010-21); and Lot 107 of Lusk Industrial Park Unit No. 4, according to Map thereof No. 10819 (APN 343-010-31).

Staff: Tim Daly – (619) 446-5356

**NOTE:** This item is not subject to the Mayor's veto.

FILE LOCATION: SUBITEMS A & B: MEET  
SUBITEM C: NONE

COUNCIL ACTION: (Time duration: 2:45 p.m. – 2:46 p.m.)

MOTION BY MAIENSCHIN TO ADOPT THE RESOLUTIONS IN SUBITEMS A AND B; AND TO INTRODUCE THE ORDINANCE IN SUBITEM C. Second by Peters. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-336: Point Loma Townhomes, an application requesting amendments to the General Plan, the Peninsula Community Plan and the Local Coastal Program to re-designate the subject site from Industrial (Fishing/Marine-related) to Commercial Land Use. The project also requires a Coastal Development Permit, a Site Development Permit, a Planned Development Permit, and a Tentative Map for the demolition of the existing structures, and the construction of four two-story and one three-story buildings consisting of 47 residential townhomes (condominium units), and three street-level commercial condominium units, above one level of subsurface parking on a 1.65-acre site, and to allow for deviations from the ground floor restriction of the CC-4-2 zone and the Coastal Overlay Zone. (Peninsula Community Plan Area. District 2.)

Matter of approving, conditionally approving, modifying, or denying an application for Community Plan and Local Coastal Program Amendments to re-designate a 1.65-acre site from Industrial (Fishing Marine-related) to Commercial for a mixed use development, Tentative Map, Coastal Development Permit, and Site Development Permit to allow the demolition of three, two-story commercial structures and associated accessory structures, and the construction of four, two-story and one, three-story buildings consisting of 47 residential townhomes, three

commercial units and one level of subsurface parking. A Planned Development Permit is also requested to allow for the deviation from the ground floor restriction of the CC-4-2 zone (SDMC 131.0540) and allow for residential development on the ground floor and parking on the ground floor in the front half of the lot. The property is located at 1275 Scott Street in the CC-4-2 Zone, Coastal Overlay Zone (Appealable), Coastal Height Limit Overlay Zone, Community Plan Implementation Overlay Zone (CPIOZ "Type B" Roseville), First Public Roadway, Parking Impact Overlay Zone (Beach Impact Area), North Bay Redevelopment Project Area, within the Peninsula Community Plan and Local Coastal Program Land Use Plan.

The proposed Point Loma Townhomes Project is located in the Coastal Zone; therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, **the final decision on this Community Plan and Local Coastal Plan Amendment will be with the California Coastal Commission.** The City of San Diego must submit this as an amendment for certification to the Coastal Commission. The amendment is not effective in the Coastal Zone until the Coastal Commission unconditionally certifies the amendment.

If you wish to be noticed of the Coastal Commission hearing on this issue, you must submit a request in writing to the Development Services Department, Attention: Laila Iskandar, Development Project Manager, 1222 First Avenue, MS 501, San Diego, CA 92101 before the close of the City Council public hearing. If you wish to challenge the City's action on the above proceedings in court, you may be limited to addressing only those issues you or someone else have raised at the public hearing described in this notice, or written in correspondence to the City at or before the public hearing.

(Report to Planning Commission No. PC-08-078/Tentative Map (TM) No. 388142/Coastal Development Permit (CDP) No. 388140/Site Development Permit (SDP) No. 388141/Planned Development Permit (PDP) No. 561515/Mitigated Negative Declaration No. 115083/ MMRP/Amendment to General Plan and the Peninsula Community Plan//Local Coastal Program No. 390318/Project No. 115083.)

(Continued from the meeting of September 23, 2008, Item 335, at the request of the applicant, Rand Wassem, for full City Council.)

**NOTE:** Hearing open. Testimony taken on 9/23/2008.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions:

Subitem-A: (R-2009-195)                      ADOPTED WITH DIRECTION AS  
RESOLUTION R-304222

Adoption of a Resolution certifying that Mitigated Negative Declaration No. 115083, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resource Code Section 21000 et seq.), as amended, and the State Guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval Community Plan Amendment, Local Coastal Program Amendment, Tentative Map, Coastal Development Permit, Site Development Permit and Planned Development Permit for Point Loma Townhomes;

That the City Council finds that project revisions now mitigate potentially significant effects on the environmental previously identified in the Initial Study and therefore, that said Mitigated Negative Declaration, a copy of which is attached hereto and incorporated by reference, is hereby approved;

That pursuant to California Pursuant Public Resource Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

Subitem-B: (R-2009-196) ADOPTED WITH DIRECTION AS  
RESOLUTION R-304223

Adoption of a Resolution amending the Peninsula Community Plan and Local Coastal Program, a copy of which is on file in the Office of the City Clerks;

That the Council adopts an amendment to the General Plan for the City of San Diego to incorporate the above amendment plan;

That this project is located in the Coastal Zone, therefore the City Council's decision requires amending the City's Local Coastal Program. As a result, these amendments will not become effective in the Coastal Zone until the Coastal Commission unconditionally certifies the Local Coastal Program amendment.

Subitem-C: (R-2009-197) ADOPTED WITH DIRECTION AS  
RESOLUTION R-304224

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference with respect to Tentative Map No. 388142;

That Tentative Map No. 388142 is granted to Dean Wilson, Trustee of the Dean Wilson Living Trust and Axiom Shelter Island, LLC, Applicants/Subdividers, and Lisa M. Leweck, Engineer, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (R-2009-198) ADOPTED WITH DIRECTION AS  
RESOLUTION R-304225

Adoption of a Resolution certifying findings supported by the minutes, maps, and exhibits, all of which are herein incorporated by reference with respect to Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141, Planned Development Permit (PDP) No. 561515;

That the recommendation of the Planning Commission is sustained, and Coastal Development Permit (CDP) No. 388140, Site Development Permit (SDP) No. 388141 and Planned Development Permit (PDP) No. 561515 are granted to Dean Wilson, Trustee of the Dean Wilson Living Trust and Axiom Shelter Island

LLC, Owners/Permittees, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

**OTHER RECOMMENDATIONS:**

Planning Commission on August 7, 2008, voted 5-0-2 to recommend approval.

Ayes: Naslund, Griswold, Ontai, Otsuji, Golba  
Not present: Schultz, Smiley

The Peninsula Community Planning Group has recommended approval of this project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Approval of the Point Loma Townhomes project consisting of a mixed-use condominium development (47 for-sale residential units, 3 commercial units) located at 1275 Scott Street, within the Peninsula Community Planning Area.

**STAFF RECOMMENDATION:**

1. ADOPT resolution and CERTIFY Mitigated Negative Declaration No. 115083, and ADOPT the Mitigation Monitoring and Reporting Program;
2. ADOPT resolution amending the General Plan, and the Peninsula Community Plan and the Local Coastal Program No. 390318; and
3. ADOPT resolutions and APPROVE Coastal Development Permit No. 388140, Site Development Permit No. 388141, Planned Development Permit No. 561515, and Tentative Map No. 388142.

**EXECUTIVE SUMMARY:**

The Point Loma Townhomes project proposes an amendment to the Peninsula Community Plan and Local Coastal Program to redesignate the subject site from Industrial (fishing/marine-related) to Commercial, which would include the following: the demolition of three existing commercial structures and associated accessory structures, and the construction of a new mixed-use condominium development consisting of 47 residential town homes (condominium units), and three (3) street-level commercial condominium units, above one level of subterranean parking. The 1.65-acre site is located at 1275 Scott Street in the CC-4-2 zone (Commercial – Community), within the Roseville/Shelter Island area of the Peninsula Community Plan and Local Coastal Program Land Use Plan Area, and the North Bay Redevelopment Project Area.



The project site was designated as Local Historical Landmark No. 855 on February 28, 2008. Only the site was designated meaning the historical designation excluded all structures on the property. The historical significance of the site will remain with the proposed project. The proposed project will include a plaque and an interpretive story board commemorating the Kettenburg family's contribution to the nautical history of Shelter Island as recommended by the Historic Resource Board.

The Coastal Development Permit is required to allow the development in the Appealable Area of the Coastal Overlay Zone; the Site Development Permit is required for development within the "Type B" area of the Community Plan Implementation Overlay Zone; and for substantial alteration or demolition of a designated historical resource. The Planned Development Permit is for deviations to allow residential use on the ground floor and residential parking in the front half of the lot, both of which are normally restricted in the CC-4-2 zone. And lastly, the Tentative Map is for a subdivision to permit the units to be constructed as condominiums (47 residential units and 3 commercial units.)

The proposed project and the request for an amendment to the Peninsula Community Plan and Local Coastal Program from Industrial (fishing/marine-related) to Commercial is in conformance with all applicable sections of the San Diego Municipal Code regarding the CC-4-2 Zone, as allowed through a Planned Development Permit, and would make the land use and implementing zoning consistent. Staff reviewed the requested deviations and determined they are minor in scope and contribute to a better overall project design.

FISCAL CONSIDERATIONS:

None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On August 7, 2008, the City of San Diego Planning Commission recommended that the City Council certify the Mitigated Negative Declaration No. 115083, adopt the Mitigation Monitoring and Reporting Program, and recommended that the City Council Approve Amendments to the General Plan and the Peninsula Community Plan and Local Coastal Program No. 390318; Coastal Development Permit No. 388140, Site Development Permit No. 388141, Planned Development Permit No. 561515; and Tentative Map No. 388142 as presented in report No. PC-08-078, and requested that the Historical Resource Board recommendation be adopted thru the Mitigation Measures and Findings associated with the Site Development Permit related to the Designated Historical Resource.

The motion made by Commissioner Griswold, seconded by Commissioner Ontai passed by a vote of 5-0-2 with Commissioner Schultz and Smiley not present.

On February 21, 2008, the Peninsula Community Planning Group voted 6-4-1 to recommend approval of the project as proposed.

**KEY STAKEHOLDERS:**

Owner: Dean Wilson Living Trust and Axiom Shelter Island, LLC

Applicant: Rand Wassem, Prism Investments, Inc.

Broughton/Anderson/LI

**LEGAL DESCRIPTION:**

The project is located at that portion of Lot 1 in Block 28, and Lots 1-12 in Block 29, together with that portion of Shafter Street as closed to public use lying between said block 28 and 29, Roseville Resubdivision, Map 4956.

**NOTE:** The City of San Diego as Lead Agency under CEQA has completed Mitigated Negative Declaration No. 115083, dated July 2, 2008, including the Mitigation, Monitoring and Reporting Program covering this activity.

Staff: Laila Iskandar – (619) 446-5297  
Marianne Greene– Deputy City Attorney

**NOTE:** This item is not subject to the Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 3:29 p.m. – 4:29 p.m.)

Testimony in opposition by Christy Schisler and Patti Krebs.

Testimony in favor by Rand Wassem, Morgan Miller and Bill Kettenburg.

MOTION BY FAULCONER TO ADOPT THE RESOLUTIONS IN SUBITEMS A, B, C AND D WITH DIRECTION FOR THE APPLICANT TO NEGOTIATE WITH THE CITY ATTORNEY'S OFFICE TO INCLUDE A DISCLOSURE NOTIFYING POTENTIAL BUYERS THAT THEY WILL BE ADJACENT TO COMMERCIAL USES AND BUYERS WAIVE ANY RIGHT TO BRING A LAWSUIT AGAINST THE BUSINESSES AND THE CITY OF SAN DIEGO. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-337: Preliminary Bond Items for Village Green Apartments. (Eastern Community Areas. District 7.)

(See San Diego Housing Commission Report No. HAR08-37.)

**SAN DIEGO HOUSING COMMISSION'S RECOMMENDATION:**

Adopt the following resolution:

(R-2009-378)            ADOPTED AS RESOLUTION R-304226

Approving the issuance of not to exceed \$13,300,000 aggregate principal amount of multifamily housing revenue bonds (Bonds) by the Housing Authority of the City of San Diego, to finance the acquisition and rehabilitation of a multifamily rental housing development, pursuant to Section 147(f) of the Internal Revenue Code of 1986;

Declaring that the City does not warrant the creditworthiness of the Bonds or guarantee, in any way, the payment of the Bonds. No moneys of the City will be pledged or applied to the repayment of the Bonds.

**SUPPORTING INFORMATION:**

A loan and bonds to finance this development are desirable because the proposed acquisition and rehabilitation would preserve multifamily rental housing and institute rent restrictions to insure affordability of 92 units for 55 years. The first position institutional loan would be capitalized through the issuance of tax-exempt bonds by the Housing Authority. The Housing Commission's loan commitment will extend through the current fiscal year ending June 30, 2009 with any

further extension to be approved by the Chief Executive Officer of the Housing Commission. A general description of the Multifamily Bond Program and the actions that must be taken by the Housing Authority and by the City Council to initiate and finalize proposed financings are described in Attachment 9 of the Housing Authority Report. These actions do not obligate the Housing Authority to issue bonds.

AFFORDABLE HOUSING IMPACT:

The Housing Commission would record 55-year rent and occupancy restrictions against the property establishing affordability of eight two-bedroom units, and two three-bedroom units to tenants with annual incomes of 50 percent or less of Area Median Income and 70 two-bedroom units, and 12 three-bedroom units to tenants with incomes at 60 percent or less of Area Median Income. One two-bedroom unit would be reserved for occupancy by a resident manager and would not be rent-restricted. Actual rents would be calculated to meet more stringent tax credit requirements and, as a result, could be affordable to tenants with incomes lower than the Area Median Income described above.

FISCAL CONSIDERATIONS:

With an estimated total development cost of \$20,316,235 (\$218,454 per unit), the proposed \$2,165,067 Housing Commission permanent loan (\$23,281 per unit) would leverage \$18,151,168 from other sources.

The developer intends to acquire the property by closing the purchase transaction on October 13, 2008. Bridge loans will be used to finance the acquisition would be repaid with the proceeds of construction and permanent financing. Permanent financing would consist of a first position amortized loan capitalized with the bond proceeds, a proposed second position residual receipts loan from the Redevelopment Agency of the City of San Diego (RDA), the proposed third position residual receipts Housing Commission loan, four percent tax credits, and a deferred developer fee. Possible funding sources include HOME, Housing Trust Fund, and Inclusionary In-lieu Fees. The project will also apply for \$88,000 in solar energy rebates.

Fifty percent of the residual receipts of the project would be used annually to make payments on the Housing Commission and RDA loans proportional to each loan's percentage of participation in the financing. Any unpaid principal and interest would be due and payable upon the earlier of first loan maturity or project refinancing.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

This loan was approved by the Housing Commission on September 12, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The proposed development received support from the Eastern Area Communities Planning Committee on August 12, 2008, for approval of the proposed acquisition and rehabilitation project and the Owner Participation Agreement (OPA) by a 6-2-2 vote. The OPA action was also approved by an 8-4-1 vote at the August 28, 2008, meeting of the Crossroads Redevelopment Area Planning Committee.

ENVIRONMENTAL REVIEW:

Should HOME funds constitute a portion of the funding for the project, a final reservation of HOME funds shall occur only upon satisfactory completion of environmental review and receipt by the City of San Diego of a release of funds from the U.S. Department of Housing and Urban Development under 24 CFR Part 58 of the National Environmental Policy Act (NEPA). The parties agree that the provision of any HOME funds to the project is conditioned on the City of San Diego's determination to proceed with, modify, or cancel the project based on the results of subsequent environmental review under NEPA. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15301.

KEY STAKEHOLDERS:

Stakeholders include the Odom Family Trust, Wakeland Housing and Development Corporation as the nonprofit developer, residents of the Community of Rolando.

Fisher/Vaughan

**NOTE:** See the Special Housing Authority Agenda of October 7, 2008, for a companion item.

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 5:07 p.m. – 5:24 p.m.)

MOTION BY MADAFFER TO ADOPT. Second by Hueso. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-not present, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

## REPORT OUT OF CLOSED SESSION:

To view the list of all available City Council Closed Session Meetings Reports refer to the link below:

<http://www.sandiego.gov/city-clerk/closedsess.shtml>

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 2:05 p.m. – 2:05 p.m.)

## NON-DOCKET ITEMS:

None.

## ADJOURNMENT:

The meeting was adjourned by Council President Peters at 5:42 p.m. in honor of the memory of:

Andrew Francis Manzi as requested by Council Member Frye.

FILE LOCATION: MINUTES

COUNCIL ACTION: (Time duration: 5:42 p.m. – 5:42 p.m.)

000119

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR REGULAR COUNCIL MEETING  
OF  
MONDAY, OCTOBER 6, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

CHRONOLOGY OF THE MEETING:

The meeting was called to order by Council President Peters at 2:06 p.m. Council President Peters recessed the meeting at 3:23 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 3:28 p.m. with Council Member Maienschein not present. Council President Peters recessed the meeting at 5:10 p.m. for the purpose of a break. Council President Peters reconvened the meeting at 5:15 p.m. with Council Member Maienschein not present. The meeting was adjourned by Council President Peters at 6:20 p.m.

ATTENDANCE DURING THE MEETING:

- (1) Council Member Peters-present
  - (2) Council Member Faulconer-present
  - (3) Council Member Atkins-present
  - (4) Council Member Young-present
  - (5) Council Member Maienschein-present
  - (6) Council Member Frye-present
  - (7) Council Member Madaffer-present
  - (8) Council Member Hueso-present
- Clerk-Maland (sr)

FILE LOCATION: MINUTES

ITEM-1: ROLL CALL

Clerk Maland called the roll:

- (1) Council Member Peters-present
- (2) Council Member Faulconer-present
- (3) Council Member Atkins-not present
- (4) Council Member Young-present
- (5) Council Member Maienschein-present
- (6) Council Member Frye-present
- (7) Council Member Madaffer-present
- (8) Council Member Hueso-present

FILE LOCATION: MINUTES

ITEM-10: INVOCATION

Invocation was given by Lora Davis of Clairemont Community of Christ church.

FILE LOCATION: MINUTES

ITEM-20: PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Council Member Faulconer.

FILE LOCATION: MINUTES



## CLOSED SESSION ITEMS:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code Section 54956.9(a):

CS-1 *Insurance Company of the State of Pennsylvania v. City of San Diego*  
*United States District Court Case No. 02CV0693 BEN*

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

EACA Assigned: D. McGrath

In closed session, Executive Assistant City Attorney Don McGrath and outside counsel, Kristine Wilkes and Harvey Levine, will brief the City Council regarding the status of this matter filed in the United States District Court and seek direction regarding settlement of the matter.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

CS-2 *Deputy City Attorney Association v. City of San Diego*  
LA-CE-359

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: A. Hersh

The *Deputy City Attorney Association v. City of San Diego* matter is an action filed by the Deputy City Attorney Association for bad faith bargaining and prematurely declaring an impasse. In closed session, the City Attorney will brief the Mayor and the City Council on the status of this matter and request the continued retention of outside counsel to handle this litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-3 *Bun Bun Tran, et al. v. City of San Diego, et al.*  
San Diego Superior Court Case No. 37-2007-00065432-CU-PA-CTL**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: A. Jones

Plaintiff claims personal injuries resulting from an incident at the intersection of Commonwealth Avenue and Juniper Street on November 18, 2006. In closed session, the City Attorney will discuss possible responses to a settlement demand made by Plaintiff.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-4 *Save Our Heritage Organization v. City of San Diego, Redevelopment Agency of the City of San Diego, et al.*  
San Diego Superior Court Case No. GIC 865774**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

CDCA Assigned: H. Carlyle

This case involves a court challenge under the California Environmental Quality Act to the approvals of the Downtown Community Plan, implementing ordinances and Environmental Impact Report. Authority to settle this case will be requested.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-5 *Todd Sabin, Stacy Sabin, Stephen Games, Sandra Games v. City of San Diego*  
(San Diego Superior Court Case No. 37-2008-00090721-CU-PA-CTL;  
*City of San Diego v. Todd Sabin, et al.*  
San Diego Superior Case No. 37-2008-00081284-CU-OR-CTL)**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA: Assigned: M. Dickenson

These matters concern certain property owners' encroachments on a City street and a related settlement agreement resulting from prior litigation. The City Attorney will update the Mayor and City Council on the status of the litigation in closed session pursuant to California Government Code Section 5496.9(a).

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**CS-6 *Hahn v. City of San Diego*  
San Diego Superior Court Case No. GIC 861704 and 37-2008-00078017-CU-IE-CTL  
[consolidated with ]**

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: C. Brock

Plaintiff filed a Complaint for damage to her real property, and a separate complaint for inverse condemnation, against the City as a result a broken City drainage pipe in 2005. The City Attorney will present Plaintiff's settlement proposal for both cases to the City Council. The reason and legal authority for the closed session is to discuss the status of pending litigation and settlement offer in the cases entitled *Hahn v. The City of San Diego*, San Diego Superior Court Case Nos. GIC 861704 and 37-2008-00078027. (Government Code Section 54956.9(a).

Closed Session Comment 1:

Brian Gonzalez commented on the litigation.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code Section 54956.9(b):**

**CS-7 *Number of Potential Cases: Up to 50 (Voluntary Compliance Program Filing)***

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

DCA Assigned: W. Chung

In closed session, the Mayor requests that Outside Counsel provide advice relating to the Pension System Changes included in the Voluntary Compliance Program Filing that may affect the pension benefits of employees, retirees and their beneficiaries.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code Section 54956.9(c):**

**CS-8** *Number of Potential Cases: 1*

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

CDCAs Assigned: M. Severson and C. Bradley

In closed session, the Mayor will brief the Council on the possible initiation of litigation.

Closed Session Comment 1:

Joy Sunyata commented on the vagueness of the item on the docket.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

**Conference with Labor Negotiator, pursuant to Government Code Section 54957.6:**

**CS-9** **Agency Negotiator:** Scott Chadwick, Jay Goldstone

**REFERRED TO CLOSED SESSION OF TUESDAY, OCTOBER 7, 2008**

Employee Organizations: Municipal Employees Association

DCAs Assigned: A. Hersh/B. Gersten

Conference with Labor Negotiators regarding negotiated settlement of language and remedy contained in City-MEA Memorandum of Understanding, Article 22, Section 2.B.

FILE LOCATION: AGENDA

COUNCIL ACTION: (Time duration: 6:13 p.m. - 6:19 p.m.)

**Council President Peters closed the hearing.**

ITEM-150: Consideration of the Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative. (Downtown Community Area. District 2.)

(See Initiative Measure to be Submitted Directly to the Voters; Port of San Diego's Save Our Working Waterfront-No on Prop B; San Diego Institute for Policy Research's August 2008, Policy Brief; and Save Our Working Waterfront.)

**TODAY'S ACTIONS ARE:**

Adopt the following resolutions:

Subitem-A: (R-2009-323) NOTED AND FILED

Supporting The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative.

Subitem-B: (R-2009-324) ADOPTED AS RESOLUTION R-304165

Opposing The Port of San Diego Marine Freight Preservation and Bayfront Redevelopment Initiative.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:**

On 9/3/2008, Rules voted 4 to 0 to send this matter to the City Council prior to the November election for consideration without a recommendation. Direction to the City Attorney to prepare resolutions for and against, for Council consideration. (Councilmembers Young, Frye, Madaffer, and Hueso voted yea. Councilmember Peters not present.)

FILE LOCATION: MEET

COUNCIL ACTION: (Time duration: 2:08 p.m. -3:23 p.m.)

MOTION BY HUESO TO NOTE AND FILE THE RESOLUTION IN SUBITEM A AND TO ADOPT THE RESOLUTION IN SUBITEM B. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-yea.

ITEM-151: Amendments to the Election Campaign Control Ordinance and Municipal Lobbying Ordinance.

(See memorandum from City Attorney dated 10/1/2008; memorandum from Ethics Commission's dated 8/20/2008; Ethics Commission's Update of Proposed Amendments dated 9/2/2008; and memorandum from Guillermo Cabrera and Stacey Fulhorst dated 9/12/2008.)

**TODAY'S ACTION IS:**

Introduce the following ordinance:

(O-2009-42)                      INTRODUCED AS AMENDED, TO BE ADOPTED  
TUESDAY, OCTOBER 21, 2008

Introduction of an Ordinance amending Chapter 2, Article 7, Division 29 of the San Diego Municipal Code by amending Sections 27.2903, 27.2911, 27.2912, 27.2916, 27.2917, 27.2924, 27.2925, 27.2930, 27.2935, 27.2936, 27.2937, 27.2938, 27.2939, 27.2945, and 27.2960; retitling and amending Sections 27.2965, 27.2966, 27.2967, 27.2968, and 27.2969; and amending Section 27.2971, relating to the City of San Diego Election Campaign Control Ordinance; and amending Chapter 2, Article 7, Division 40 of the San Diego Municipal Code by amending Section 27.4002, relating to Campaign Fundraising Disclosures under the City's Municipal Lobbying Ordinance.

**RULES, OPEN GOVERNMENT, AND INTERGOVERNMENTAL RELATIONS  
COMMITTEE'S RECOMMENDATION:**

On 9/3/2008, Rules voted 5 to 0 to support staff recommendations with change of specific nomenclature to "Professional Expense Fund" from "Legal Defense Fund" to more accurately reflect the use and intent of the fund. Councilmember Young specifically did not support the additional filing requirement due to its onerous nature. (Councilmembers Peters, Young, Frye, Madaffer, and Hueso voted yea.).

**SUPPORTING INFORMATION:**

The proposed amendments to the Municipal Code are reflected in the Ordinance, Strike-Out Ordinance, and City Attorney Digest. The proposed reforms are described in detail in the memo from Guillermo Cabrera and Stacey Fulhorst dated September 9, 2008.

In summary, the amendments would increase the City's contribution limits, add an additional pre-election filing for City candidates, modify the rules governing professional expense committees, modify the telephone communications requirements to maintain consistency with state law and to include calls made by candidates or political committees for polling purposes, and implement a series of housekeeping amendments. Changes to contribution limits in the Election Campaign Control Ordinance necessitate a corresponding change to the fundraising activities disclosure provisions in the Lobbying Ordinance.

FISCAL CONSIDERATIONS: None.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:

Approved by the Rules Committee on June 11, 2008, and September 3, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Public discussion at 10 Ethics Commission Meetings from October of 2007 through August of 2008.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

City candidates, political committees, campaign treasurers, and persons required to register as lobbyists.

Fulhorst

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 4:10 p.m. - 5:10 p.m.)

MOTION BY FRYE TO INTRODUCE THE ORDINANCE AS AMENDED WITH THE EXCEPTION OF CONTRIBUTION LIMITS WHICH WOULD REMAIN AT THE CURRENT LIMITS (WOULD NOT INCREASE LOBBYIST FUNDRAISING DISCLOSURE OR PROFESSIONAL EXPENSE FUND CONTRIBUTION LIMITS.)  
Second by Young . Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

MOTION BY FRYE TO ADOPT THE THIRD FILING REPORT  
RECOMMENDATION. Second by Atkins. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-nay, Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.



Motion by Frye not to adopt the increase to campaign contributions recommendation.  
Second by Young . Failed. Peters-nay, Faulconer-nay, Atkins-yea, Young-yea,  
Maienschein-yea, Frye-yea, Madaffer-nay, Hueso-nay.

MOTION BY HUESO TO ADOPT THE INCREASE TO THE CONTRIBUTION  
LIMITS TO \$500 (INCREASING LOBBYIST FUNDRAISING DISCLOSURE OR  
PROFESSIONAL EXPENSE FUND CONTRIBUTION LIMITS ACCORDINGLY.)  
Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-  
nay, Young-yea, Maienschein-nay, Frye-nay, Madaffer-yea, Hueso-yea.

ITEM-200: Casa del Horizonte. Appeal of the decision of the Historical Resources Board to  
designate as a historical resource the property at 7417-7427 Olivetas Avenue, La  
Jolla, California 92037. (La Jolla Community Plan Area. District 1.)

Matter of the appeal by Gerald Rudick, Managing Member of Olivetas Associates  
LLC, from the decision of the Historical Resources Board to designate the  
property located at 7417-7427 Olivetas Avenue, La Jolla, California 92037.

(See Report to the City Council No. 08-132 and Historical Resources Board  
Report No. 08-009.)

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009- ) APPEAL GRANTED; ADOPTED AS RESOLUTUION  
R-304166

Granting or denying the appeal and upholding or overturning the action of the  
Historical Resources Board in designating the property at 7417-7427 Olivetas  
Avenue as a historical resource;

Directing the City Attorney to prepare the appropriate resolution according to  
Section 40 of the City Charter.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

Consider the appeal of the March 27, 2008, decision of the City's Historical Resources Board (HRB) to designate the Casa del Horizonte, located at 7414-7427 Olivetas Avenue, as a historical resource.

**STAFF RECOMMENDATION:**

Deny the appeal and do not reject or modify the historical resource designation of the Casa del Horizonte, located at 7417-7427 Olivetas Avenue.

**EXECUTIVE SUMMARY:**

This item is before the City Council as an appeal of the HRB decision of March 27, 2008, to designate the Casa del Horizonte located at 7417-7427 Olivetas Avenue as a historical resource (HRB #858), with a vote of 9 in favor, 1 opposed, and 0 abstentions. The resource was designated under HRB Criterion A as a special element of La Jolla's historical, cultural, social, economic, aesthetic and architectural development as the only Contemporary style bungalow court in La Jolla; and under HRB Criterion C as a very good example of a post-WWII (1948), Contemporary style bungalow court with high integrity.

The HRB considered all of the information presented to it and in doing so, recognized and validated the compelling arguments that resulted in designation. Since the hearings, there has been no new evidence submitted to refute the designation, no evidence to show that the information the HRB received was wrong, and no evidence presented as to any violations of bylaws or procedures. Therefore, staff recommends that the appeal be denied based on the fact that no material information has been provided in support of the Municipal Code-established findings that the City Council needs to make in order to overturn the decision of the HRB.

**FISCAL CONSIDERATIONS:** None with this action.

**PREVIOUS COUNCIL AND/OR COMMITTEE ACTION:** None.

**COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:**

A noticed public hearing was held on February 28, 2008, and March 27, 2008. Notices of Public Hearing were sent to the property owner and their representative prior to each hearing before the Historical Resources Board, consistent with Municipal Code requirements. The property owner has been sent public notice of the appeal hearing.

Anderson/McCullough

**LEGAL DESCRIPTION:**

Casa del Horizonte is located at 7417-7427 Olivetas Avenue, San Diego, CA 92037, APN: 350-591-05-00, and is further described as Lots 14-16, Block 2 according to Map 352, located within San Diego's La Jolla Community in the City of San Diego, County of San Diego, State of California.

Staff: Kelley Saunders – (619) 236-6545  
Marianne Greene – Deputy City Attorney

**NOTE:** This item is not subject to the Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:15 p.m. - 5:51 p.m.)

Testimony in favor of the appeal by Jerry Ruddick, Jay Wexler, Scott Moomjin, and Marie Lia.

MOTION BY MADAFFER TO GRANT THE APPEAL. Second by Faulconer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-201: Ocean View Village, Project No. 96580. Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. (Otay Mesa Community Plan Area. District 8.)

Matter of approving, conditionally approving, modifying or denying a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units, on a 10.4 acre site located at 996 Otay Valley Road. The Site Development Permit is for Steep Hill-sides, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The Vesting Tentative Map is for a subdivision for condominium construction. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes

redevelopment from this auto dismantling use to the approved land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan.

**STAFF'S RECOMMENDATION:**

Adopt the following resolutions in Subitems A, B, and C; and introduce the ordinance in Subitem D:

Subitem-A: (R-2009-315) CONTINUED TO TUESDAY, OCTOBER 14, 2008

Adoption of a Resolution certifying that the information contained in Addendum to Environmental Impact Report No. 98-0189, on file in the Office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a Rezone Ordinance, Site Development Permit, and Vesting Tentative Map for Ocean View Village project;

Declaring that pursuant to California Public Resources Code Section 21081 and California Code of Regulations Section 15091, the City Council adopts the findings made with respect to the project, a copy of which is on file in the Office of the City Clerk;

Declaring that pursuant to California Code of Regulations Section 15093, the City Council adopts the Statement of Overriding Considerations, a copy of which is on file in the Office of the City Clerk and incorporated herein by reference, with respect to the project;

Declaring that pursuant to California Public Resources Code Section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

Subitem-B: (R-2009-316) CONTINUED TO TUESDAY, OCTOBER 14, 2008

Adoption of a Resolution certifying the findings, with respect to Site Development Permit No. 320732, which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Site Development Permit No. 320732 to Melvyn V. Ingalls, Owner/Permittee, sustaining the recommendation of the Planning Commission, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

Subitem-C: (R-2009-317 Cor. Copy 1) CONTINUED TO TUESDAY,  
OCTOBER 14, 2008

Adoption of a Resolution certifying findings with respect to Vesting Tentative Map No. 314829 which are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference;

Granting Tentative Map No. 314829 to Melvyn V. Ingalls, Applicant/Subdivider, subject to the attached conditions which are made a part of this resolution by this reference.

Subitem-D: (O-2009-41 Cor. Copy) CONTINUED TO TUESDAY,  
OCTOBER 14, 2008

Introduction of an Ordinance changing 10.4 acres located at 996 Otay Valley Road, within the Otay Mesa Community Plan Area, in the City of San Diego, California, from the AR-1-1 zone into the RM-2-4, CN-1-2 and IL-2-1 zones, as defined by the San Diego Municipal Code Sections 131.0406, 131.0502, 131.0603; and repealing Ordinance No. O-10862 (New Series), adopted June 29, 1972, of the ordinances of the City of San Diego insofar as the same conflicts herewith.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 24, 2008, voted 5-1-1 to recommend that the City Council certifies Addendum No. 96580 to Environmental Impact Report No. 98-0189; adopt the Mitigation Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830 as presented in Report No. PC-08-085.

Additional recommendations to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy No. 900-14, and provide for a reclaimed water service if a reclaimed water service is available in the future.

Ayes: Golba, Naslund, Otsuji, Schultz, Ontai  
Nays: Griswold  
Not present: Smiley

The Otay Mesa Community Planning Group has recommended approval of this project.

**STAFF SUPPORTING INFORMATION:****REQUESTED ACTION:**

Approval of a new mixed use development consisting of 143 residential units, 40,678 square feet of commercial, and 37,850 square feet of industrial uses on a 10.4 acre site located at 996 Otay Valley Road, within the Otay Mesa Community planning area.

**STAFF RECOMMENDATION:**

Recommend that the City Council certify Addendum No. 96580 to Environmental Impact Report No. 98-0189, adopt the Mitigation, Monitoring and Reporting Program; and approve Site Development Permit No. 320732, Vesting Tentative Map No. 314829 and Rezone Ordinance No. 314830.

**EXECUTIVE SUMMARY:**

The Ocean View Village project is a request for a Site Development Permit, Vesting Tentative Map and Rezone to construct 143 residential units, 40 commercial units and 24 industrial units on a 10.4 acre site located at 996 Otay Valley Road. The project is located in the AR-1-1 Zone, Airport Influence Area, and Airport Environs Overlay Zone, of the Otay Mesa Community Plan. The Site Development Permit is for Steep Hillside, Sensitive Biological Resources and seven Deviations to development regulations for Affordable Housing. The seven Deviations to

development regulations are being requested as part of the affordable/in-fill housing and sustainable building regulations for setbacks, street frontage, drive aisle driveway width, retaining wall height, off-street loading spaces, and structure height. The Vesting Tentative Map is for a subdivision for condominium construction. The Rezone is to change the AR-1-1 Zone to RM-2-4, CN-1-2 and IL-2-1 in accordance with the adopted Robinhood Ridge Precise Plan and Community Plan. The site was previously regulated under CUP 88-0498 as an Auto Dismantling Center. The property proposes redevelopment from this auto dismantling use to the proposed land uses. The project was reviewed in the Affordable Housing Expedite Program and will provide 15 of the residential units as affordable in accordance with the Inclusionary Housing Ordinance.

The project has not been controversial and there were no speaker slips in opposition at either of the two Planning Commission hearings. The project was docketed for Planning Commission on July 17th and trailed to July 24th. The Planning Commission recommended the City Council require two conditions; 1) provide photovoltaic panels (solar energy) on the roof for either the Residential or Commercial/Industrial area that would meet the Sustainable Expedite Program requirements of Council Policy 900-14, and 2) a condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

The owner/applicant recommends an alternative to both of the Planning Commission conditions. There is no current reclaimed water service to the project area; therefore staff could not condition the project to connect to a reclaimed water service at this time. There are no Municipal Code provisions that require projects to install photovoltaic panels. The applicant has volunteered to provide 10% of the residential units as Affordable Housing. As an alternative to the condition to provide a future reclaimed water service, the owner/applicant agrees to provide this service for landscaping. As an alternative to the condition to provide photovoltaics, the owner/applicant agrees to build the commercial/industrial structures to LEED standards and impose specified sustainable design and development conditions on the residential portion of the project.

FISCAL CONSIDERATIONS:

All staff costs associated with processing this project are recovered from a deposit account maintained by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

Planning Commission: The Planning Commission recommended the City Council approve the project on July 24, 2008, by a vote of 5-1-1 with two recommendations: 1) The project be required to provide Photovoltaic Panels for either the Residential or Commercial/Industrial area that would meet the Expedite Program requirements of Council Policy 900-14; and 2) Add a Condition to provide for a reclaimed water service if a reclaimed water service is available in the future.

Community Planning Group: The Otay Mesa Community Planning Board voted 13-1-1 on September 20, 2006, to recommend approval of the project, with additional landscape recommendations that were incorporated into the design.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Owner: Melvyn V. Ingalls.

Applicant: M. W. Steele Group, Inc.

Broughton/Anderson/DM

LEGAL DESCRIPTION:

The project site is legally described as the southeast quarter of the southwest quarter of the northeast quarter of Section 29, Township 18 South, Range 1 West, San Bernardino Meridian, County of San Diego.

NOTE: The City of San Diego, as Lead Agency under California Environmental Quality Act (CEQA) and State CEQA Guidelines has prepared and completed Addendum No. 96580 to Environmental Impact Report No. 98-0189, and the Mitigation, Monitoring and Reporting Program (MMRP) covering this activity.

Staff: Diane Murbach – (619) 446-5042  
Marianne Greene – Deputy City Attorney

NOTE: This item is not subject to the Mayor's veto.

FILE LOCATION: NONE

COUNCIL ACTION: (Time duration: 3:28 p.m. - 4:09 p.m.)



Testimony in favor by Mike McDade, Steve Silverman, and Mel Ingalls.

MOTION BY HUESO TO CONTINUE TO TUESDAY, OCTOBER 14, 2008, FOR FURTHER REVIEW. Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-yea, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-202: Hanalei Hotel. Appeal of the Environmental Determination, requesting a Site Development Permit and Planned Development Permit to add a 10,000 square-foot meeting facility to the existing hotel. (Mission Valley Community Area. District 6.)

Matter of the appeal by Randy Berkman, River Valley Preservation Project (RVPP), Lynn Mulholland, Mission Valley Community Council (MVCC), James A. Pough, San Diego Audubon Society and Evelyn Shively, Sierra Club, of the Planning Commission's decision in approving an application for a Site Development Permit to construct an approximately 10,000 square-foot addition for an exhibit hall on the existing parking area of the Hanalei Hotel at 2270 Hotel Circle.

(See Report to Planning Commission No. PC-08-088/Mitigated Negative Declaration No. 114212/Project No. 114212.)

(Continued from the meeting of September 22, 2008, Item 200, at the request of Councilmember Frye, to allow all appellants to be present.)

**NOTE:** Hearing closed. Testimony taken on 9/22/2008.

**STAFF'S RECOMMENDATION:**

Take the following actions:

(R-2009- )

APPEAL DENIED; ADOPTED AS RESOLUTION  
R-304167

Granting or denying the appeal and upholding or overturning the decision by the Planning Commission certifying Mitigated Negative Declaration (MND) No. 114212, and adopting Mitigation Monitoring and Reporting Program (MMRP);

Certifying that the information contained in Mitigated Negative Declaration No. 114212, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code Section 21000 et seq.) as amended, and the State guidelines thereto (California Administrative Code Section 15000 et seq.), that the report reflects the independent judgment of the City of San Diego as Lead Agency and that the information contained in said report, together with any comments received during the public review process, has been reviewed and considered by the City of San Diego City Council;

That the City of San Diego City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that said Negative Declaration is hereby approved;

That pursuant to California Public Resource Code, Section 21081.6, the City of San Diego City Council hereby adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto and incorporated herein by reference;

Directing the City Clerk to file a Notice of Determination (NOD) with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project;

Directing the City Attorney to prepare the appropriate resolutions according to Section 40 of the City Charter.

**OTHER RECOMMENDATIONS:**

Planning Commission on July 24, 2008, voted 5-0-2 to deny.

Ayes: Schultz, Naslund, Ontai, Otsuji, Golba  
Not present: Griswold, Smiley

The Mission Valley Community Planning Group has recommended approval of this Project.

**STAFF SUPPORTING INFORMATION:**

**REQUESTED ACTION:**

This action is an appeal of the environmental determination (Mitigated Negative Declaration No. 114212). The environmental document was prepared for the 10,000 square foot expansion of a conference facility to the Hanalei Hotel Project.

**STAFF RECOMMENDATION:**

**DENY** the appeal and **CERTIFY** MND No. 114212.

**EXECUTIVE SUMMARY:**

This item is an appeal of the environmental determination to prepare a Mitigated Negative Declaration (MND No. 114212) and accompanying Mitigation, Monitoring and Reporting Program for a conference room addition to the existing Hanalei Hotel. All other administrative appeals have been exhausted. The Hearing Officer approved the project and the Planning Commission upheld that decision by unanimously denying the subsequent appeal.

The Hanalei Hotel is requesting a 10,000 square foot expansion of their existing conference facility. The hotel property is located at 2270 Hotel Circle North in the Mission Valley Community Plan area (Attachment 1). The site is directly adjacent to both the Interstate 8 Freeway on the south and the San Diego River on the north. The 9.7 acre site is surrounded by commercial and visitor uses to the east and west within the Valley. The project requires a Site Development Permit because the property is within the floodplain which is identified in the Land Development Code as a Special Flood Hazard Area. The floodplain includes the floodway and the floodway fringe. The proposed addition is within the floodway fringe. The Land Development Code defines the floodplain as Environmentally Sensitive Lands (ESL) and establishes the applicable development regulations and entitlement process for development within the flood plain. The project also requires a Planned Development Permit to implement the applicable provisions of the Atlas Specific Plan. The proposed addition was reviewed by staff in accordance with State and Local regulations, and staff determined the addition to be a minor improvement to the previously developed site.

The appeal of the environmental determination is generally based on the consistency of the project with the Atlas Specific Plan and asserts that significant environmental impacts have not been addressed in the Mitigated Negative Declaration (Attachment 4). The appeal contends required improvements mandated by the Specific Plan have not been implemented. These improvements include the 100-year channelization of the adjacent San Diego River and a requirement that 75% of the project's required off-street parking is located within a parking structure. The appeal also contends that proposed surface parking should not be permitted within the 30 foot river buffer. The appeal further states that the project reviews should have required a traffic study, a site specific cultural resource study and a floodwater displacement study. Lastly, the appeal contends that the project is inconsistent with City Council Policy 600-14: Development within Areas of Special Flood Hazards.

Staff disagrees with the appeal arguments and believes Mitigated Negative Declaration No. 114212 considered all potential impacts to the environment and that the Mitigation, Monitoring and Reporting Program (MMRP) provide the sufficient mitigation for the proposed project.

Staff agrees with both FEMA and the State Water Resource Board, which considers river channelization an outdated method of flood protection. Channelization projects identified within the Atlas Plan will not be implemented with other Mission Valley projects in the future. Regarding the issue of structured parking, staff concluded there is no reasonable nexus between a relatively small improvement (10,000 square feet or 4% of the existing floor area) and the requirement to build a 400 car parking structure. Also, since no rooms are being added to the hotel, the intensity of the land use on the site is not increasing. As for parking within the 30-foot river buffer, staff considers that as an existing condition. The parking area was constructed in the existing configuration as part of the hotel expansion in 1974, while the buffer was placed over the site in 1988, when the Atlas Plan was adopted. No new pavement is proposed with this application and the property owner can re-stripe the existing pavement at will with no permit requirements.

Staff determined that no additional environmental studies were required for traffic, cultural resources and flood displacement as the appeal contends because the thresholds requiring such studies were not met with the minor addition. And finally, staff determined that the proposed noise mitigation outlined within the MND is adequate in that it was developed in coordination with the California Department of Fish and Game and the U.S. Fish and Wildlife Service pursuant to the 1997 Implementing Agreement between the City of San Diego and those agencies.

Lastly, staff determined that the proposed project is consistent with Council Policy 600-14. The policy does not restrict development in the Special Flood Hazard Areas, which includes the floodway fringe, but rather seeks to promote the public health, safety and general welfare, and to minimize public and private losses due to flooding and flood conditions. The project has been reviewed and conditioned for compliance with all FEMA standards for development within the flood plain and no deviations to the Environmentally Sensitive Lands Regulations of the Land Development Code are requested as a part of the project.

The Mitigated Negative Declaration was prepared, distributed and finalized in accordance with all applicable CEQA guidelines and City of San Diego land use regulations and policies. The environmental analysis focused on all potential impacts the proposed project might have on the surrounding community and determined the appropriate mitigation to reduce potential impacts below a level of significance.

FISCAL CONSIDERATIONS:

There are no fiscal considerations with this project. All costs associated with processing this application are paid for by the applicant.

PREVIOUS COUNCIL AND/OR COMMITTEE ACTION: None.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On May 28, 2008, the Hearing Officer approved the project. That decision was appealed and on July 24, 2008, the Planning Commission voted 5-0-2 (Commissioners Griswold and Smiley absent) to deny the appeal and approve the project. On August 1, 2007, the Mission Valley Unified Planning Committee voted 15-1-0 to approve the proposed project as conditioned by the staff.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Dan Weber, Hanalei LLC (Owner) and Janay Kruger, Kruger Development (Applicant)

Broughton/Anderson/PH

LEGAL DESCRIPTION:

The project site is located at 2270 Hotel Circle North in the MVPD-MV/-M/SP and the OF-1-1 Zones of within Atlas Specific Plan and the Mission Valley Community Plan Area.

Staff: Patrick Hooper – (619) 557-7992

**NOTE:** This item is not subject to the Mayor's veto.

**FILE LOCATION:** MEET

**COUNCIL ACTION:** (Time duration: 5:52 p.m. - 6:13 p.m.)

MOTION BY FRYE TO DENY THE APPEAL AND UPHOLD THE DECISION OF THE PLANNING COMMISSION CERTIFYING THE MITIGATED NEGATIVE DECLARATION NO. 114212 AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM WITH FINDINGS AND MITIGATION MEASURES OF PULLING BACK THE RIVER TRAIL TO BE OUTSIDE OF THE FLOODWAY AND TREATMENT FOR THE RUNOFF WILL BE NO LESS THAN 75 PERCENT OF THE TOTAL SITE, AS AGREED ON THE RECORD BY THE APPLICANT.

Second by Madaffer. Passed by the following vote: Peters-yea, Faulconer-yea, Atkins-yea, Young-yea, Maienschein-not present, Frye-yea, Madaffer-yea, Hueso-yea.

ITEM-250: **Notice of Pending Final Map Approval – 4052 32<sup>nd</sup> Street Condominiums.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "4052 32<sup>nd</sup> Street Condominiums" (T.M. No. 486185/PTS No. 154941), located on the west side of 32<sup>nd</sup> Street between Polk Avenue and Lincoln Avenue in the Greater North Park Community Plan Area in Council District 3, a copy of which is available for public viewing at the Office of the San Diego City Clerk.

Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

**ITEM-251: Notice of Pending Final Map Approval – The California.**

Notice is hereby given that the City Engineer has reviewed and will approve on this day the subdivision of land shown on that certain final map entitled "The California" (T.M. No. 199717/PTS No. 106901), located on the west side of 29<sup>th</sup> Street between "A" Street and "B" Street in the Greater Golden Hill Community Plan Area in Council District 8, a copy of which is available for public viewing at the Office of the San Diego City Clerk. Specifically, the City Engineer has caused the map to be examined and has made the following findings:

- (1) The map substantially conforms to the approved tentative map, and any approved alterations thereof and any conditions of approval imposed with said tentative map.
- (2) The map complies with the provisions of the Subdivision Map Act and any local ordinances applicable at the time of approval of the tentative map.
- (3) The map is technically correct.

Said map will be finalized and recorded unless a valid appeal is filed. Interested parties will have 10 calendar days from the date of this Council hearing to appeal the above findings of the City Engineer to the City Council. A valid appeal must be filed with the City Clerk no later than 2:00 p.m., 10 calendar days from the date of this Notice stating briefly which of the above findings made by the City Engineer was improper or incorrect and the basis for that conclusion. If you have questions about the approval findings or need additional information about the map or your appeal rights, please feel free to contact Anne Hoppe at (619) 446-5290.

000144

Minutes of the Council of the City of San Diego  
for the Regular Meeting of Monday, October 6, 2008

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REPORT OUT OF CLOSED SESSION:

None.

NON-DOCKET ITEMS:

None.

ADJOURNMENT:

The meeting was adjourned by Council President Peters at 6:20 p.m.

FILE LOCATION:

MINUTES

COUNCIL ACTION:

(Time duration: 6:20 p.m. - 6:20 p.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego



000145

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
TUESDAY, SEPTEMBER 30, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Vacant: None.

Clerk: Zumaya.

The City Council meeting of Tuesday, September 30, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regularly scheduled meetings of the City Council are Monday, October 6, 2008 at 2:00 p.m. and Tuesday, October 7, 2008 at 9:00 a.m. The City Council will meet in Closed Session from 9:00 a.m. – 10:00 a.m. (The public portion of Tuesday's meeting will begin at 10:00 a.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego

000147

UNAPPROVED

THE CITY OF SAN DIEGO, CALIFORNIA  
MINUTES FOR THE ADJOURNED REGULAR COUNCIL MEETING  
OF  
MONDAY, SEPTEMBER 29, 2008  
AT 2:00 P.M.  
IN THE COUNCIL CHAMBERS - 12TH FLOOR

Present: None.

Not Present: Council Members Peters, Faulconer, Atkins, Young, Maienschein, Frye,  
Madaffer, Hueso.

Vacant: None.

Clerk: Richardson.

The City Council meeting of Monday, September 29, 2008, has been adjourned, pursuant to the 2008 Legislative Calendar, adopted by Resolution R-303207 on December 3, 2007.

The next regularly scheduled meetings of the City Council are Monday, October 6, 2008 at 2:00 p.m. and Tuesday, October 7, 2008 at 9:00 a.m. The City Council will meet in Closed Session from 9:00 a.m. – 10:00 a.m. (The public portion of Tuesday's meeting will begin at 10:00 a.m.)

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Elizabeth S. Maland, City Clerk  
City of San Diego